(b) *Increases.* After the initial obligation of funds, HUD will not make any upward revisions to the amount obligated for the acquisition/rehabilitation advance or the moderate rehabilitation grant.

(c) *Deobligation.* (1) HUD may deobligate amounts for the acquisition/rehabilitation advance or the moderate rehabilitation grant:

(i) If the actual total costs of acquisition, substantial rehabilitation, acquisition and rehabilitation, or moderate rehabilitation, are less than the total costs anticipated in the application; or

(ii) If proposed acquisition or rehabilitation activities are not begun or completed within a reasonable time after selection.

(2) If, as a result of an audit, HUD determines that the recipient has expended funds for uses that are ineligible under this part, HUD may adjust or deobligate funding amounts, as appropriate, to recover the ineligible costs.

(3) The grant agreement may set forth in detail other circumstances under which funds may be deobligated, and other sanctions may be imposed

(4) HUD may:

(i) Readvertise the availability of funds that have been deobligated under this section in a notice of fund availability under § 841.200, or

(ii) Reconsider applications that were submitted in response to the most recently published notice of fund availability and select applications for funding with the deobligated funds. Such selections will be made in accordance with §§ 841.207–841.225.

Date: May 31, 1988.

James E. Schoenberger,

General Deputy, Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 88–14288 Filed 6–23–88; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-88-1806; FR-2521]

Supportive Housing Demonstration Program—Invitation for Applications

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Invitation for Applications.

SUMMARY: On February 16, 1988 (53 FR 2444), HUD published a notice announcing the availability of $30 million in funds for permanent housing for handicapped homeless persons under the Supportive Housing Demonstration Program authorized under Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987). Because HUD did not receive a sufficient number of applications to use the entire $30 million available for permanent housing, this notice invites additional applications for the program.

EFFECTIVE DATE: This notice is effective June 24, 1988.

Applications for assistance for permanent housing for handicapped homeless persons are due August 30, 1988.

FOR FURTHER INFORMATION CONTACT: Morris Bourne, Director, Transitional Housing Development Staff, Department of Housing and Urban Development, Room 9141, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-9075 or 755-1520. Hearing or speech-impaired individuals may call HUD's TDD number (202) 426-0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

On February 16, 1988 (53 FR 2444), HUD published a notice announcing the availability of funds for permanent housing for handicapped homeless persons under the Supportive Housing Demonstration Program authorized under Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987). The notice announced the availability of $30 million in funds for permanent housing for handicapped homeless persons. $15 million of these funds were set aside for this housing in the Supplemental Appropriations Act, 1987 (Pub. L. 100-71, approved July 11, 1987) and $15 million of these funds were set aside for this housing in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Pub. L. 100-202, approved December 22, 1987).

The deadline for applications for permanent housing for handicapped homeless persons was set as March 31, 1988. HUD did not receive a sufficient number of applications by the March 31, 1988 deadline to expend the $30 million in funds available for the program. Approximately $25 million remains available for the program.

HUD conducted a survey to determine why some States did not apply for funds, and why others did not submit a greater number of applications. The results of this survey indicate that the lack of sufficient time to prepare applications was a major contributing factor. Accordingly, the Department has encouraged continued efforts to develop applications and has notified all State governors and the Mayor of the District of Columbia that they will have an opportunity to apply for the remaining funds following the review and selection of applications received by March 31, 1988. Today's notice invites additional applications for permanent housing for handicapped homeless persons.

II. Application procedures

The February 16, 1988 notice described the requirements that would govern the selection of applications and the use of funds for permanent housing for handicapped homeless persons. These requirements are those contained in the proposed rule governing permanent housing for handicapped homeless persons (proposed Part 841) published October 26, 1987 (52 FR 39965-39974). (The February 16, 1988 notice also modified these procedures to permit HUD to conduct an environmental review simultaneously with the review of application threshold requirements.) Interested persons are advised to consult these documents for specific program requirements. (Elsewhere in today's Federal Register, HUD has published a final rule governing the Supportive Housing Demonstration Program, including permanent housing for handicapped homeless persons. The effective date of the final rule is September 1, 1988. Consequently, the final rule will not govern the submission of applications under this notice.)

HUD developed a two-part application package prescribing the information that applicants (*i.e.*, States) must submit on behalf of project sponsors (*i.e.*, private nonprofit organizations). This package was sent to all State governors and the Mayor of the District of Columbia in December 1987 with instructions to designate a State agency to coordinate the application process. Minor modifications are being made to the application package. These modifications have no effect on the preliminary development of applications. The modified application package will be sent to the designated State agencies as soon as it is available.

An interested private nonprofit organization may obtain an application package only through the designated State agency. The name, address, and telephone number of the contact person in the appropriate State agency may be obtained by calling (202) 755-1520 or 755-9075. Hearing or speech-impaired individuals may call HUD's TDD number (202) 426-0015. (These telephone numbers are not toll-free.)

Applications must be on the form prescribed by HUD. Applicants will be required to submit two copies of their application to the Department of Housing and Urban Development, Room 9141, 451 Seventh Street, SW, Washington, D.C. 20410, and one copy of the application to the Director of Housing in the appropriate HUD field office, by 5:15 p.m. (E.D.T.) August 30, 1988. Applications that are received after this date and time will be rejected.

Following the expiration of the August 30, 1988 deadline, HUD Headquarters will review, rate and rank the applications consistent with its announced procedures. HUD will make and announce its final selections as soon as possible following the submission of applications.

III. Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). Elsewhere in today's issue of the **Federal Register**, the Department has published a separate document which includes an example of the application

package and related instructions, and notifies the public that HUD has requested expedited review by OMB of the information collection requirements. Interested persons are invited to submit comments on the information collection requirements in accordance with the procedures set forth in that document. No person may be subjected to penalty for failure to comply with the information collection requirements until the requirements have been approved and assigned an OMB control number. The OMB control number when assigned will be announced in the Federal Register.

The Catalog of Federal Domestic Assistance program number is 14.178.

Authority: Title IV, Subtitle C of the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100–77, approved July 22, 1987; sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: June 16, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioners.

[FR Doc. 88–14289 Filed 6–23–88; 8:45 am]

BILLING CODE 4210–27–M

Office of Administration

[Docket No. N–88–1816]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for expedited review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal by July 1, 1988. Comments should refer to the proposal by name and should be sent to:

John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for expedited review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). It is also requested that OMB complete its review within seven days.

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)

Date: June 17, 1988.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Supportive Housing Demonstration Program; Permanent Housing for the Handicapped Homeless Application Package.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: This program is necessary to allow HUD to determine the eligibility of private nonprofit organizations or governmental entities to receive funding under the demonstration program. It is needed to assess the relative capability of these organizations to operate housing and supportive services for the handicapped homeless population to be served.

Form Number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	Frequency of response	Hours per response	Burden hours
Permanent HSG	125	1	45	5,625
Transitional HSG	275	1	45	12,375
Total burden	400	1	45	18,000

Total estimated burden hours: 18,000.

Status: Revision.

Contact: Morris Bourne, HUD, (202) 755–9075; John Allison, OMB, (202) 395–6880.

Date: June 15, 1988.

Supporting Statement—Supportive Housing Demonstration Program—Notice of Final Rule OMB 2502–0361

A. Justification

1. Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77, approved July 22, 1987) directed HUD to carry out a Supportive Housing Demonstration Program to develop innovative approaches for providing housing and supportive services for homeless persons through two components: transitional housing, by facilitating the movement of homeless individuals to independent living, and permanent housing for homeless handicapped persons.

The information sought from potential applicants for this program in the final rule is necessary to permit HUD to determine which organizations seeking funding under the demonstration are eligible to participate and have the capacity to carry out the activities under the demonstration as required by statute.

2. HUD Headquarters staff will use the information to establish the eligibility of applicants (or project sponsors) to participate in the demonstration and to assess, as required by law:

1. the financial responsibility of the applicant;
2. the ability of the applicant (or project sponsor) to develop and operate the housing and to provide or coordinate supportive services for the residents of the housing;
3. the innovative quality of the applicant's proposal, and
4. the need for the housing and supportive services in the area to be served.

These assessments are necessary to allow HUD to determine the relative merits of each proposal, rank them against each other, and ultimately select applications for funding. HUD would be unable to assure that it met the statutory

requirements for selecting recipients for assistance under this program if it did not collect the requested information.

3. The use of improved information technology to reduce burden was not considered because of the relatively small number of applicants for the demonstration program and the one-time nature of the information requests for respondents.

4. We have been unable to identify any requests for information which duplicate the burden for this documentation.

5. No similar information available from any source.

6. We have examined the information requested to ensure that it is the minimum amount necessary to select the applicants in accordance with the statutory directives, and to assure the avoidance of fraud, waste and mismanagement in the operation of the program.

7. Applications are submitted occasionally, based upon appropriation of funds for the demonstration program.

8. There are no known circumstances that require the collection of information to be inconsistent with the guidelines of 5 CFR 1320.6.

9. HUD program officials conducted five meetings with homeless care providers and other groups and individuals to obtain their views on transitional housing before final development of the guidelines. Also, the public was given an opportunity to comment on the proposed rule which was published in the **Federal Register** on October 26, 1987. The Interagency Council on the Homeless which is responsible for reviewing and monitoring Federal programs to assist the homeless, has an opportunity to comment on both components of the Supportive Housing Demonstration Program. In addition, the Department has consulted with the National Association of State Mental Health Program Directors, the Mental Health Law Project, and the National Mental Health Association specifically on the permanent housing component.

10. This information collection would not contain personal information that would require an assurance of confidentiality.

11. The final rule does not contain requests for information of a sensitive nature.

12. The costs to the federal government will consist primarily of personnel costs involved in Headquarters review of the applications in order to select recipients of supportive housing demonstration funds. Headquarters review should take approximately 8 hours for each application, with a total review time for the estimated 400 applications of 3200 hours. Cost estimated to be: GS–11 at $13/hour x 3200 hours = $41,600.

The dollar cost to the applicant in developing the application is expected to be minimal, since most of the applicants are expected to be governmental entities and private nonprofit organizations, where the activities necessary to develop the application will be done on a pro bono basis, the cost would be estimated at $10/hour x 18,000 hours =$180,000.

13. We estimate that approximately 400 organizations will submit applications for participation in this demonstration program (i.e. 275 for transitional housing, 125 for permanent housing). Applicants will require approximately 18 hours time to negotiate with and secure support for their program from social service agencies and approximately 24 hour will be required to develop the application itself and estimate one hour for filing of any information to maintain accurate records. Thus, estimated average burden hours for each application is 45 hours.

14. The Supplemental Appropriation Act of 1987 (Pub. L. 100–71, approved July 11, 1987) appropriated $80 million for the Supportive Housing Demonstration Program: a reauthorization, with amendments, of funds ($65 million) for Transitional Housing, and new funding ($15 million) for permanent housing for handicapped homeless pesons. The Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1988 (Pub. L. 100–202, approved December 22, 1987) (Fiscal Year–1988 Appropriations Act) appropriated an additional $65 million in funds for the Supportive Housing Demonstration Program: $750,000 for the Interagency Council on the Homeless, $49.25 million for transitional housing, and $15 million for permanent housing. Burden hours, therefore, have been increased due to additional collection of information for distribution of new funding under the demonstration program. We estimate that the new funding will allow an additional 75 applicants for transitional housing and 50 for permanent housing.

15. This information will not be published for statistical use.

BILLING CODE 4210-01-M

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PERMANENT HOUSING PROGRAM FOR THE HANDICAPPED HOMELESS

APPLICATION PACKAGE

Thank you for your interest in the Permanent Housing Program for Handicapped Homeless Persons (Permanent Housing Program). This Application Package specifies application requirements and must be used in conjunction with the Proposed Rule published in the Federal Register on October 26, 1987.

DIRECTIONS: The Governor must designate a State agency to coordinate the development of the application package(s). Coordination will involve the following steps:

1. notifying private, non-profit organizations of the availability of funds through the Permanent Housing Program;

2. making copies of the application package available to potential project sponsors;

3. establishing an interim deadline for project sponsors to submit their applications to the State agency;

4. reviewing the project sponsors' applications;

5. completing each application package;

6. forwarding all the application packages to HUD by August 30, 1988.

The Application Package consists of two parts: Part I contains Exhibits 1 through 7 which must be completed by the Applicant (State) and Part II contains Exhibits 1 through 8 which must be completed by the Project Sponsor. The designated State agency may add additional Exhibits to Part II of the application if necessary to complete certain Exhibits in Part I. An entire application (Part I and Part II (except for Exhibit 8 and additional Exhibits required by the State)) must be submitted to HUD by the State on behalf of each Project Sponsor.

APPLICATION FORMAT: Applications must be appropriately bound with Exhibits tabbed and numbered as shown in this package.

NUMBER OF COPIES REQUIRED: One signed original and two copies

SUBMIT THE ORIGINAL AND ONE COPY TO:

Transitional Housing Development Staff
Department of Housing and Urban Development
Room 9141
451 Seventh St., SW
Washington, D.C. 20410

SUBMIT THE SECOND COPY TO:

The Director of Housing in the appropriate HUD Field Office. If you are not sure of the correct HUD Field Office for the area in which your project is located, please call the appropriate HUD Regional Homeless Coordinator:

Region	City	Name	Telephone #
I	Boston	Robert Yablonskie	617-565-5285
II	New York	Ira Weiner	212-264-4705
III	Philadelphia	George Dukes	215-597-2860
IV	Atlanta	Charles Clark	404-331-4113
V	Chicago	Ann Scherrieb	312-353-5957
VI	Ft. Worth	Nancy Mattox	817-885-5483
VII	Kansas City	Marcia Presley	816-374-2664
VIII	Denver	Peter Downs	303-844-4959
IX	San Francisco	Kay Valory	415-556-4752
X	Seattle	Robert Scalia	206-442-4610

DEADLINE: Applications (Part I and Part II) must be received at the HUD Central Office (address above) by 5:15 PM DST Tuesday, August 30, 1988.

QUESTIONS: Contact the Transitional Housing Development Staff at (202) 755-9075 or 1520. These are not toll-free numbers.

STATUS OF APPLICATION: No information will be released by HUD regarding the processing status of an application until funding announcements are made.

TENTATIVE ANNOUNCEMENT OF SELECTIONS: August 30, 1988.

TABLE OF CONTENTS

APPLICATION RECEIPT FORM

DIRECTIONS:

If you wish to receive written verification that your application was received in the HUD Office by 5:15 P.M. DST on Tuesday, August 30, 1988, type or print your name and address in the block provided and include this form on the top of your originally signed application. The bottom portion will be completed by HUD and returned to you.

THIS PORTION WILL BE COMPLETED BY HUD

This is to verify that your application was received in the HUD Office by 5:15 P.M. DST on Tuesday, August 30, 1988.

The following numbers have been assigned to your applications:

NAME OF PROJECT SPONSOR	NUMBER

PART I - APPLICANT (STATE)

DIRECTIONS: The State must submit to HUD one application (Parts I and II) on behalf of each project sponsor within the State. The State must complete Part I, Exhibits 1 through 7. If the state is submitting more than one application the state must provide one original Part I with the first application and a copy of Part I with each additional application. The project sponsor will complete Part II, Exhibits 1 through 8, plus any additional Exhibits the State may require.

SECTION A - APPLICANT INFORMATION

Exhibit Number	Description
1	Letter of Participation (must be signed by the Governor) Include the following:

a. brief description of each application identified by project sponsor name (include type of structures, handicapped population to be served, number of residents per structure, amount and type of assistance requested).

b. evidence that there is an unmet need for the proposed permanent housing in the location to be served (i.e., estimates of unmet demand, present need, projections of future need) and that this need is likely to continue throughout the term of the applicant's commitment to HUD.

c. brief description of the State's efforts to provide housing and supportive services to the handicapped homeless population.

d. an assessment of how the proposed project would meet the needs of the handicapped homeless population in the State.

e. a description of the innovative quality of each application identified by project sponsor name proposal including how it uses a new or unusual approach that holds promise of success-fully providing permanent housing and supportive services to the residents of the project.

Exhibit Number	Description

f. Designation of the State agency whose primary responsibility is the provision of services to handicapped persons and who will assist the State housing finance agency in fulfilling the State responsibilities under Subtitle C of Title IV of the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77. (If this agency will not be responsible for the overall administration of this program, the applicant mujst also designate the administering agency including the name, address and telephone number of contact person.)

The (title of official in charge of the agency names above to whom the delegation is being given) is authorized to execute the certifications required by Exhibits 2,4,5 and 9 of the application for funds under the permanent housing component of the Supportive Housing Demonstration Program. I certify that this delegation of authority is authorized by the laws of the State of _____.

g. Committment of matching funds - (The amount of HUD assistance provided must be matched with at least an equal amount of state or local government funds that will be used solely for acquisition and/or rehabilitation. At least 50 percent of this match must be state government funds.)

1. Identify, per project sponsor, the amount of state government funds that will be committed to match the amount of HUD funds requested plus the extent to which it will supplement the required match with additional state funding.

2. If the state cannot commit at least half of the matching contribution, it must request a waiver of Section 841.125 (a)(2) of the Proposed Rule for the Supportive Housing Demonstration Program published in the Federal Register on October 26, 1987. In requesting a waiver, demonstrate the following:

- it is experiencing a severe financial hardship that makes it unable to provide 50 percent of the matching contribution, and

- that local governments of the area to be served by the project (s) will contribute additional funds in an aggregate amount equal to the amount of the State contribution that may be a waivered by HUD.

Exhibit Number	Description
3	If the local government will be providing a portion or all of the required matching contribution, provide a letter of committment from each local government source, indicating the amount of funds being committed.
h.	an assurance that the state will promptly transmit both the Federal and State asistance for this program to the project sponsor and will facilitate the provision of necessary supportive services to the residents of the project.
i.	a statement certifying that the submission of the application is authorized under State law, and that the State has the legal authority to participate in the program in accordance with program requirements and the requirements of other applicable Federal law.

Signature of Governor

2. Standard Form 424 -
Complete blocks 4, 7, 8, 9, 10, 13, 15, 16, and 23

SECTION B - PROPOSED HOUSING AND SUPPORTIVE SERVICES

4 Site Control - The applicant (State) or the project sponsor must have control of the site (structure) at the time the application is submitted. If the applicant has control of the site, it must submit Exhibit 3 (a through f). If the project sponsor has 3 control of the site, the applicant may skip Exhibit 4 (a through f) which must then be included by the project sponsor as Exhibit 4 (a through f) in Part II of the application.

NOTE: If more than one site/structure will be used per project sponsor, Exhibit 3 (a through f) must be submitted for each site/structure.

Exhibit Number	Description
	Evidence that the applicant has control of the site (structure) in the form of: a. option agreement to purchase or lease b. lease agreement c. contract of sale d. deed or other proof of ownership e. documentation described below for acquisition from a public body or through eminent domain
c	Site Control Period Options must, at a minimum, run through 3-15-89. The term of the lease must be adequate to cover the required 10 year operating period of the permanent housing project.
	Site Acquired from Public Bodies If the site is to be acquired from a public body, submit evidence that the public body: a. possesses clear title or an option to purchase or lease; and, b. has entered into a legally binding written agreement to convey the site to the applicant upon its notification of funding under the program.
	Site Acquired through Eminent Domain If the site is to be acquired by the public body through the eminent domain process, a. the action must be complete by 7-15-88; AND, b. the application must include a copy of the land disposition agreement or a resolution from the public body conveying site control to the applicant.
3a	Permissive Zoning - Evidence that the proposed use of the site/structure is currently permissible under applicable zoning ordinances, regulations or approved variances or that actions necessary to make it permissible have been initiated and will be completed. Examples of such evidence are: (1) a letter from the zoning board or commission (2) an attorney's opinion (3) a copy of the zoning ordinance indicating the proposed use is permissible.

Exhibit Number	Description
3b	Historical Properties - Indication whether the project will involve the use of, or be adjacent to, a historic property and, if so, identification of the historic property. This information should be obtained from the State Historic Preservation Officer (SHPO), the local government or any local historic commission or organization and a copy of the information should be provided in this exhibit.
3c	Local Government Approval - Written statement from the unit of general local government in which the proposed permanent housing is located, indicating that the proposed use of the structure and site is not inconsistent with any plan the local government may have which would affect the use of the structure and site for permanent housing. If a written response was not received, submit a copy of your letter (requesting the local government's comments) as this exhibit. If the response is received prior to 12-15-88, it should be forwarded to HUD.
3d	Narrative description of the building, the neighborhood and the proposed rehabilitation. Include a photograph of the building, its current use, and the estimated cost of the rehabilitation.
3e	Appropriateness of the proposed structure(s) and site(s). Demonstrate that the proposed structure(s) and site(s) are appropriate for (1) the provision of housing and supportive services in a suitable non-institutional group setting and (2) for the handicapped homeless population to be served.
3f	Development schedule - Provide an estimated date for each of the following: transmittal of Federal and State funding to project sponsor, acquisition, start-up and completion of rehabilitation, and initial occupancy of project (or date increased level of services begin).
	SECTION C - CERTIFICATIONS
4	Fair Housing and Equal Opportunity Certifications - complete attached format identified as Exhibit 4.
5	Applicant Certifications - complete attached format identified as Exhibit 5.
6	Certification of Consistency with Comprehensive Homeless Assistance Plan (CHAP) - the attached format identified as Exhibit 6 must be completed and signed by the public official responsible for submitting the CHAP.

Exhibit 4

APPLICANT
FAIR HOUSING AND EQUAL OPPORTUNITY CERTIFICATIONS

The Applicant hereby assures and certifies that:

It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and regulations pursuant thereto (Title 24 CFR Part 1) which states that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for whch the applicant receives financial assistance; and will immediately take any measures necessary to effectuate this agreement. With reference to the real property and structure(s) thereon which are provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer, the transferee, for the period during which the real property and structure(s) are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

It will comply with Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) as amended, which prohibits discrimination in housing on the basis of race, color, religion, sex or national origin, and administer its programs and activities relating to housing in a manner to affirmatively further fair housing.

It will comply with Executive Order 11063 on Equal Opportunity in Housing which prohibits discrimination because of race, color, creed, sex or national origin in housing and related facilities provided with Federal financial assistance.

It will comply with Executive Order 11246 and all regulations pursuant thereto (42 CFR Chapter 60-1), which states that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of Federal contracts and shall take affirmative action to ensure equal employment opportunity. The applicant will incorporate, or cause to be incorporated, into any contract for construction work as defined in Section 130.5 of HUD regulations the equal opportunity clause required by Section 130.15(b) of the HUD regulations.

It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701a), and regulations pursuant thereto (24 CFR Part 135), whch requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project and contracts for work in connection with the project be awarded to business concerns whch are located in, or owned in substantial part by persons residing, in the area of the project.

It will comply with Section 504 of the Rehabilitation Act of 1973, as amended which prohibits discrimination based on handicap in federally assisted and conducted programs and activities.

It will comply with the Age Discrimination Act of 1975, as amended, which prohibits discrimination because of age in programs and activities receiving Federal financial assistance.

It will comply with Executive Orders 11625, 12432, and 12138, which state program participants shall take affirmative action to encourage participation by businesses owned and operated by minority groups and women.

It will, in making known the availability of the permanent housing, establish additional procedures when intended procedures are unlikely to reach persons of any particular race, color, religion, sex or national origin who may qualify for admission.

_____ _____

Signature Date

_____

Typed Name and Title

Exhibit 7

APPLICANT CERTIFICATIONS

(Other than Fair Housing & Equal Opportunity Certifications which are in Exhibit 4)

The Applicant hereby assures and certifies that it will comply with the following:

1. It will ensure that the permanent housing project is operated in accordance with the provisions in the Proposed Rule published in the Federal Register on October 26, 1987.

2. The proposed permanent housing project is operationally feasible and will provide adequate housing and supportive services to handicapped homeless persons.

3. It will ensure that the proposed activities will not have caused and will not result in the temporary or permanent displacement of any person or entity.

4. It will ensure that the supportive services required for each resident upon his or her admission to the permanent housing project are continually assessed at appropriate intervals.

5. It will ensure that the structure identified in this application is used as permanent housing for not less than 10 years following its initial occupancy (or increased service delivery) with funding under this program.

6. It will ensure that the structure, after rehabilitation, will meet applicable State and local requirements regarding a safe and sanitary condition.

7. It will ensure the compliance with any applicable State licensing requirements in the operation of the permanent housing project.

8. It will repay the full amount of any acquisition/rehabilitation advance if the structure is not used for permanent housing for a 10 year period following the initial occupancy with funding under this program unless the Secretary determines that the project is no longer needed as permanent housing for handicapped homeless persons and approves its alternate use for the direct benefit of lower income persons.

9. The funds obligated by HUD under this program cannot be increased but may be decreased in accordance with the provisions in Section 841.400(b) and (c) of the Proposed Rule for the Supportive Housing Demonstration Program published in the Federal Register on October 26, 1987.

10. If the structure is taken by eminent domain or seizure during the 10 year period, it will repay the advance to the extent that funds are available from the eminent domain or other proceeding.

11. It will obtain and maintain in force property casualty insurance with HUD named as beneficiary, in an amount at least equal to the amount of the acquisition/rehabilitation advance or the moderate rehabilitation grant.

12. It will ensure that residents in the permanent housing project are required to pay rent in accordance with Section 3(a) of the United States Housing Act of 1937.

13. Use of the proposed structure as permanent housing for handicapped homeless persons is currently permissible under applicable zoning ordinances, regulations or approved variances or will be by 12-30-88.

14. The proposed structure and site are appropriate for (a) the provision of housing and supportive services in a suitable group setting, and (b) the handicapped homeless population to be served.

15. It will execute the Grant Agreement within two weeks of its receipt.

16. It will ensure that the permanent housing project is developed expeditiously in accordance with the time schedule included in Exhibit 4f of this application.

17. It will not employ, engage for services, award contracts or fund any contractors or subcontractors during any period of their debarment, suspension or placement in ineligibility status.

18. In the acceptance and use of assistance under this Program, it will comply with the policies, guidelines and requirements of OMB Circular Nos. A-87 and A-102.

19. It will ensure the compliance with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as described in Section 841.330(d) of the Proposed Rule for the Supportive Housing Demonstration Program published in the Federal Register on October 26, 1987.

20. The financial management system used for permanent housing will provide for audits in accordance with 24 CFR Part 44.

21. The proposed permanent housing project is not located in any 100-year floodplain (or 500 year floodplain if 50% or more of the living space in the structure is designed for residents with mobility impairments), as designated by maps prepared by the Federal Emergency Management Agency.

22. It will keep any records and make any reports that HUD may require.

23. The amounts estimated in this application for the cost of acquisition and/or rehabilitation of the permanent housing project can be supported by documentation which is on file and will be maintained for at least the first three years of operation with funding under this program.

24. No person (1) who is an employee, agent, consultant, officer, or elected or appointed official of the recipient, that receives assistance under the demonstration and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or (2) who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, will obtain a personal or financial interest or benefit from the activity, or have any interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

25. A resolution, motion or similar action has been duly adopted or passed as an official act by its governing body, authorizing the submission of this application and the establishment and operation of the proposed permanent housing project.

26. It will comply with all applicable requirements resulting from HUD's determination pursuant to Section 106 of the National Historic Preservation Act.

27. No assistance received from HUD for permanent housing (or any State or local government funds used to supplement this assistance) will be used to replace State or local government assistance program funds used to assist handicapped persons, homeless individuals, or handicapped homeless persons during the calendar year preceding the date of the application or were designated for such use through an official action of the applicable governmental entity during the calendar year preceding the date of the application.

28. No more than 5 percent of an acquisition/rehabilitation advance or a moderate rehabilitation grant will be used for administrative purposes.

Signature _____ Date _____

Typed Name and Title _____

WARNING

Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure, 72 Stat. 967) shall apply to such statements (18 U.S.C. 1001, among other things, provides that who ever knowingly and willfully makes or uses a document or writing containing any false, fictitious, fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined no more than $10,000 or imprisoned for not more than five years, or both).

Exhibit 6

CERTIFICATION OF CONSISTENCY WITH
COMPREHENSIVE HOMELESS ASSISTANCE PLAN (CHAP)

I _____ OF THE
(Name and Title)

STATE OF _____, CERTIFY THAT THIS PROJECT IS CONSISTENT WITH OUR APPROVED COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

_____
(Signature)

_____
(Date)

SECTION D - FINANCIAL

Exhibit Number	Description
7	Financial Responsibility of Project Sponsor Submit a statement that the Governor or other chief executive official of the State has approved the financial responsibility of the project sponsor. DIRECTIONS: The project sponsor must submit to you as Section D of Part II of the Application Package a statement of income and expenses and balance sheets for each of the past three years of its operation (DO NOT SUBMIT THEM IN THIS APPLICATION). In making your determination of financial responsibility of the project sponsor, take into consideration its past financial history, its current and anticipated financial outlook, the amount of funding that will be committed under this proposal and its other financial responsibilities.
8	Types and Amounts of Assistance Requested - Complete attached format identified as Exhibit 8-1 OR 8-2, as appropriate.

Exhibit 8-1

TYPE OF ASSISTANCE REQUESTED

DIRECTIONS: Complete the spaces on the following pages under the type of assistance that you are requesting. If you are not requesting a particular type of assistance, check the appropriate box.

If your application proposes an expansion of an existing facility or project currently serving handicapped homeless persons, you must request assistance for the particular costs relating to the expansion only.

I. Acquisition/Rehabilitation Advance

☐ Requested (complete below) ☐ Not Requested (go to next page)

A.* Cost of Acquisition $_____

B.* Cost of Rehabilitation $_____

C. Total Acquisition/Rehabilitation Cost $_____
(Add Lines A and B)

D. Total Amount Provided By Applicant $_____

E. Total Amount Provided by Local Government (if applicable) $_____

F. Total Match (Add Lines D and E) $_____

G. HUD Funding Requested By Applicant $_____ (no more 5 percent of this figure can be applied toward administrative costs.)

NOTES: 1. Line D must be at least 50 percent of Line F.

2. Line G must not exceed the lesser of: 50 percent of Line C or $200,000.

* Include administrative costs

Exhibit 8-2

II. Moderate Rehabilitation Grant

☐ Requested (complete below) ☐ Not Requested (go to next page)

DIRECTIONS: See attached example (Exhibit 10-2a) for assistance in completing this Exhibit.

A. Cost of Rehabilitation $_____

** Number of Units per project

_____ 0 BR unit in SRO
_____ BR unit in group home
_____ 0 BR unit

B. Total x $5,000 = $_____

_____ 1 or more BR unit(s)

C. Total x $7,000 = $_____

D. Project Limit (Add Lines B and C) $_____

E. Total Amount Provided by Applicant $_____

F. Total Amount Provided by Local Government (if applicable) $_____

G. Total Match (Add Lines E and F) $_____

H. HUD Funding Requested by Applicant $_____ (no more than 5 % of this figure can be applied toward administrative costs)

NOTES: Line E must be at least 50 percent of Line G.

Line H must not exceed the lesser of: Line D or 50 percent of Line A.

* include administrative costs.

** Total project limited to 8 handicapped persons or 8 handicapped persons and their families in a structure other than a group home.

Exhibit 8-2a

EXAMPLE OF COMPLETED FORMAT
FOR MODERATE REHABILITATION GRANT

The moderate rehabilitation grant may not exceed the lesser of (1) the project limit (described below); or, (2) 50 percent of the cost of the rehabilitation.

Project Limit = $ 5,000 per (1) bedroom unit in single room occupancy (SRO) housing

(2) bedroom unit in group home

(3) unit without bedroom in other types of projects

$ 7,000 per unit with one or more bedrooms in other types of projects.

Project - one or more existing structures, or parts of one or more existing structures, as long as the entire project does not house more than eight handicapped homeless persons (families may be included in structures other than group homes or SROs).

Example: Project Sponsor "X" is applying for a moderate rehabilitation grant to rehabilitate a group home to serve 4 handicapped people; two single room occupancy units, each serving one handicapped person; and, two 2 bedroom units in an apartment complex, each serving 1 family (1 handicapped person, spouse and child). The total cost of rehabilitation is $95,000. Turn to the following page for the completed format.

Exhibit 8-2

II. Moderate Rehabilitation Grant

☐ Requested (completed below) ☐ Not Requested (go to next page)

A. Cost of Rehabilitation $ 95,000 *

* Number of Units per project

____	O BR unit in SRO
4	BR unit in group home
2	O BR unit

B.	6	x	$5,000 =	$ 30,000
	____		1 or more BR unit(s)	
C.	2	x	$7,000 =	$ 14,000

D.	Project Limit (Add Lines B and C)	$ 44,000
E.	Total Amount Provided by Applicant	$ 27,000
F.	Total Amount Provided by Local Government (if applicable)	$ 24,000
G.	Total Match (Add Lines E and F)	$ 51,000
H.	HUD Funding Requested by Applicant	$ 44,000 (no more than 5 % of this figure can be applied toward administrative costs)

NOTES: Line E must be at least 50 percent of Line G.

Line H must not exceed the lesser of: Line D or 50 percent of Line A.

* Include administrative costs

** Total project limited to 8 handicapped perosns or 8 handicapped persons and their families in a structure other than a group home.

PART II - PROJECT SPONSOR

SECTION A - PROJECT SPONSOR INFORMATION

PROVIDE NAME, ADDRESS, AND PHONE NUMBER OF CONTACT PERSON

Exhibit Number	Description
1	Evidence of Project Sponsor eligibility Submit: a. Currently effective IRS ruling providing tax exempt status; b. Articles of Incorporation, Charter or Constitution; and, c. By-laws
2	Narrative description of past experience (no more than two single-spaced or four double-spaced typed pages). Include, at a minimum, the following: a. Have you developed and/or operated housing? In what capacity? For how long? b. Have you provided and/or coordinated the provision of supportive services? What kinds of services? For what type of population? For how long? c. How large was your operation? d. How many people did you serve at one time? e. What was your source of financing? f. How do you measure your success? g. How does your experience relate to your role in the proposed project? h. Describe the administrative, managerial and and operational capabilities of your staff. How many of your staff function in these capacities?

SECTION B - PROPOSED HOUSING AND SUPPORTIVE SERVICES

Exhibit Number	Description
3	Narrative response to the following: (no more than five single-spaced or ten double-spaced typed pages).

a. Describe the handicapped homeless population(s) you will house per structure (i.e., male/female, ages, disabilities, etc.).

b. How many individuals and/or families will live in each satructure?

c. Describe your occupancy selection process.

d. Describe the supportive services plan for the residents.

(1) What services will be provided?
(2) Who will provide them?
(3) If service providers other than the project sponsor will be providing any or all of the supportive services, how will coordination be ensured?
(4) When will they be provided?
(5) Will they be provided on or off-site? If off-site, how will access be ensured?

e. What arrangement, if any, will be made for residential supervision/management? Why is this arrangement appropriate?

f. How and when will client assessments be performed? By whom?

g. Describe the number and type of staff that will be assigned to this project.

h. Describe any aspects of the proposed project that you think are innovative.

IF YOU ARE CURRENTLY OPERATING AN EXISTING PROGRAM OR FACILITY SERVING HANDICAPPED HOMELESS PERSONS, ANSWER THE FOLLOWING:

i. Are you increasing the number of people served in your existing program or facility? Give the current number served and the number increased.

j. Are you proposing a change in use (e.g. conversion from transitional housing to permanent housing)?

Exhibit Number	Description
(cont'd)	k. How does your proposal meet the eligibility requirements specified in the Proposed Rule for the Supportive Housing Demonstration Program, Section 841.120(a) Funding of existing housing facilities and programs?
4	Site Control - The applicant (State) or the project sponsor must have control of the site (structure) at the time the application is submitted. If the project sponsor has control of the site, it must submit Exhibit 4 (a through f). If the applicant has control of the site, the project sponsor may skip Exhibit 4 (a through f) which must then be included by the applicant as Exhibit 3 (a through f) in Part I of the application. Evidence that the project sponsor has control of the site (structure) in the form of: a. option agreement to purchase or lease b. lease agreement c. contract of sale d. deed or other proof of ownership e. documentation described below for acquisition from a public body or through eminent domain Site Control Period Options must, at a minimum, run through 3-15-89. The term of the lease must be adequate to cover the required 10 year operating period of the permanent housing project. Sites Acquired from Public Bodies If the site is to be acquired from a public body, submit evidence that the public body: a. possesses clear title or an option to purchase or lease, AND b. has entered into a legally binding written agreement to convey the site to the project sponsor upon its notification of funding under the program.

Exhibit Number	Description
(cont'd)	Site Acquired through Eminent Domain If the site is to be acquired by the public body through the eminent domain process, a. the action must be complete by 12-15-88, AND b. the application must include a copy of the land disposition agreement or a resolution from the public body conveying site control to the project sponsor.
4a	Permissive Zoning - Evidence that the proposed use of the site/structure is currently permissible under applicable zoning ordinances, regulations or approved variances or that actions necessary to make it permissible to have been initiated and will be completed no later than 12-30-88. Examples of such evidence are: (1) a letter from the zoning board or commission (2) an attorney's opinion (3) a copy of the zoning ordinance indicating the proposed use is permissible.
4b	Historical Properties - Indication whether the project will involve the use of, or be adjacent to, a historic property and, if so, identification of the historic property. This information should be obtained from the State Historic Preservation Officer (SHPO), the local government or any local historic commission or organization and a copy of the information should be provided in this exhibit.
4c	Local Government Approval - Written statement from unit of general local government in which the proposed permanent housing is located, indicating that the proposed use of the structure and site is not inconsistent with any plan the local government may have which would affect the use of the structure and site for permanent housing. If a written response was not received, submit a copy of your letter (requesting the local government's comments) as this exhibit. If the response is received prior to 7-15-88, it should be forwarded to HUD.

Exhibit Number	Description
4d	Narrative description of the building, the neighborhood and the proposed rehabilitation. Include a photograph of the building, its current use, and a breakout the estimated cost of the rehabilitation.
4e	Appropriateness of the proposed structure(s) and site(s). Demonstrate that the proposed structure(s) and site(s) are appropriate for (1) the provision of housing and supportive services in a suitable noninstitutional group setting and (2) for the handicapped homeless population to be served.
4f	Development schedule - Provide an estimated date for each of the following: transmittal of Federal and State funding to project sponsor, acquisition, start-up and completion of rehabilitation, and initial occupancy of project (or date increased level of services begin).
5	Letters of intent (not support) from any organization(s) which will provide supportive services to the residents of the permanent housing project. Each letter must describe the service(s) and indicate the organization's ability and willingness to provide the service(s). This exhibit is not required if all supportive services will be provided by the applicant/project sponsor.

SECTION C - CERTIFICATIONS

Exhibit Number	Description
6	Fair Housing and Equal Opportunity Certifications complete attached format identified as Exhibit 6.
7	Project Sponsor Certifications - complete attached format identified as Exhibit 7.

Exhibit 6

PROJECT SPONSOR
FAIR HOUSING AND EQUAL OPPORTUNITY CERTIFICATIONS

The Project Sponsor hereby assures and certifies that:

It will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and regulations pursuant thereto (Title 24 CFR Part 1) which states that no person in the Unites States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives financial assistance; and will immediately take any measures necessary to effectuate this agreement. With reference to the real property and structure(s) thereon which are provided or improved with aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer, the transferee, for the period during which the real property and structure(s) are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

It will comply with Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) as amended which prohibits discrimination in housing on the basis of race, color, religion, sex or national origin, and administer its programs and activities relating to housing in a manner to affirmatively further fair housing.

It will comply with Executive Order 11063 on Equal Opportunity in Housing which prohibits discrimination because of race, color, creed, sex or national origin in housing and related facilities provided with Federal financial assistance.

If will comply with Executive Order 11246 and all regulations pursuant thereto (42 CFR Chapter 60-1), which states that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of Federal contracts and shall take affirmative action to ensure equal employment opportunity. The applicant will incorporate, or cause to be incorporated, into any contract for construction work as defined in Section 130.5 of HUD regulations the equal opportunity clause required by Section 130.15(b) of the HUD regulations.

It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701a), and regulations pursuant thereto (24 CFR Part 135), which requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.

It will comply with Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination based on handicap in federally-assisted and conducted programs and activities.

It will comply with the Age Discrimination Act of 1975, as amended, which prohibits discrimination because of age in programs and activities receiving Federal financial assistance.

It will comply with Executive Orders 11625, 12432, and 12138, which state program participants shall take affirmative action to encourage participation by businesses owned and operated by minority groups and women.

It will, in making known the availability of the permanent housing establish additional procedures when intended procedures are unlikely to reach persons of any particular race, color, religion, sex or national origin who may qualify for admission.

Signature, Authorized Officer/Director

Date

Typed Name and Title

Exhibit 7

PROJECT SPONSOR CERTIFICATIONS

(Other than Fair Housing & Equal Opportunity Certifications which are in Exhibit 6)

The Project Sponsor hereby assures and certifies that it will comply with the following:

1. It will operate the permanent housing project in accordance with provisions of the Proposed Rule published in the Federal Register on October 26, 1987.

2. It will limit the number of occupants in a group home to eight individuals excluding their families and in a rental building, condominium or cooperative, eight families.

3. It will not transfer operations to a new project/sponsor unless the new project/sponsor is approved by HUD.

4. The proposed permanent housing project is operationally feasible and will provide adequate housing and supportive services to handicapped homeless persons.

5. The proposed activities will not have caused and will not result in the temporary or permanent displacement of any person or entity.

6. It will assess the supportive services required for each resident upon his or her admission to the permanent housing project and reassess each resident's need for supportive services on an ongoing basis during his or her residency.

7. It will provide appropriate supervision for the residents.

8. It agrees to use the structure for permanent housing for a 10-year period following the initial occupancy with funding under this program (or ten years from date expanded services are provided, if applicable).

9. The structure will, after rehabilitation, meet applicable State and local requirements regarding a safe and sanitary condition.

10. It will comply with any applicable State licensing requirements in the operation of the transitional housing.

11. It will repay the full amount of any acquisition rehabilitation advance if it fails to use the structure for permanent housing for a 10-year period following the initial occupancy with funding under this program, unless the Secretary determines that the project is no longer needed as permanent housing for handicapped homeless persons and approves its alternate use for the direct benefit of lower income persons.

12. The funds obligated by HUD under this program cannot be increased but may be decreased in accordance with the provisions in the Supportive Housing Demonstration Program Proposed Rule published in the Federal Register on October 26, 1987.

13. If the structure is taken by eminent domain or seizure during the 10-year period, it will repay the advance to the extent that funds are available from the eminent domain or other proceeding.

14. It will obtain and maintain in force property casualty insurance with HUD named as beneficiary, in an amount at least equal to the amount of the acquisition/rehabilitation advance or the moderate rehabilitation grant.

15. It will require residents to pay rent in accordance with Section 3(a) of the United States Housing Act of 1937 and it will perform all necessary related administrative functions such as income recertification, etc.

16. Use of the proposed structure as permanent housing for handicapped homeless persons is currently permissible under applicable zoning ordinances, regulations or approved variances or will be by 12-30-88.

17. The proposed structure and site are appropriate for (a) the provision of housing and supportive services in a suitable group setting, and (b) the handicapped homeless population to be served.

18. If required by the Notification of Funding Approval, it will form a separate legal entity to be the recipient of funds under this program and it will transfer site control to the new entity.

19. It will develop the permanent housing expeditiously in accordance with the time schedule included in Exhibit 4f of this application.

20. It will not employ, engage for services, award contracts or fund any contractors or subcontractors during any period of their debarment, suspension or placement in ineligibility status.

21. In the acceptance and use of assistance under this Program, it will comply with the policies, guidelines and requirements of OMB Circular Nos. A-110 and A-122.

22. It will comply with the requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as described in Section 841.330(d) of the Proposed Rule for the Supportive Housing Demonstration Program published in the Federal Register on October 26, 1987.

23. The financial management system used for the permanent housing project will provide for audits in accordance with OMB Circular A-110.

24. The proposed housing is not located in any 100-year floodplain (or 500 year floodplain if 50% or more of the living space in the structure is designed for residents with mobility impairments), as designed by maps prepared by the Federal Emergency Management Agency.

25. It will keep any records and make any reports that HUD may require.

26. The amounts estimated in this application for the cost of acquisition and/or rehabilitation can be supported by documentation which is on file and will be maintained for at least the first three years of operation with funding under this program.

27. No person (1) who is an employee, agent, consultant, officer, or elected or appointed official of the recipient, that receives assistance under the demonstration and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or (2) who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, will obtain a personal or financial interest or benefit from the activity, or have any interest in any contract, subcontract or agreement with respect thereto or the proceeds thereunder, either for him or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

28. A resolution, motion or similar action has been duly adopted or passed as an official act by its governing body, authorizing the submission of this application and the establishment and operation of the proposed housing.

29. It will comply with all applicable requirements resulting from HUD's determination pursuant to Section 106 of the National Historic Preservation Act.

Signature, Authorized Officer/Director _____ Date _____

Typed Name and Title _____

WARNING

Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure, 72 Stat. 967) shall apply to such statements (18 U.S.C. 1001), among other things, provides that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined no more than 10,000 or imprisoned for not more than five years, or both.

SECTION D - FINANCIAL

Exhibit Number	Description
8	Statement of income and expenses and balance sheets for each of the past three years of operation. If you have operated for less than three years, submit this information for your actual period of operation. This exhibit must include the following certification: _____ CERTIFIES THIS (Name of Applicant) INFORMATION TO BE ACCURATE AND CAN PROVIDE DOCUMENTATION FOR THE PERIOD FROM: _____ TO: _____, IF REQUESTED BY HUD. _____ Authorized Applicant Signature

[FR Doc. 88-14290 Filed 6-23-88; 8:45 am]
BILLING CODE 4210-01-C

federal register

Friday
June 24, 1988

Part VI

Department of Health and Human Services

Office of Human Development Services

45 CFR Part 1336

Native American Programs; Assistance to Native Hawaiians and Native American Pacific Islanders; Interim Final Rule and Notice of Announcement of Availability of Competitive Financial Assistance for Native Hawaiian Revolving Loan Fund Demonstration Project

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1336

Native American Programs; Assistance to Native Hawaiians and Native American Pacific Islanders

AGENCY: Administration for Native Americans (ANA), Office of Human Development Services, Department of Health and Human Services.

ACTION: Interim final rule.

SUMMARY: The Administration for Native Americans is amending its regulations to: (1) Establish the procedures and criteria by which ANA will make a five-year demonstration grant to one agency of the State of Hawaii or to one Native Hawaiian organization to manage a Revolving Loan Fund to promote economic development for Native Hawaiians; and (2) extend eligibility for ANA financial assistance to include Native American Pacific Islanders (including American Samoan Natives).

These changes are in response to recent amendments (Pub. L. 100–175) to the Native Americans Program Act of 1974, Pub. L. 93–644. The effect of the regulatory amendments will be to provide directions to the Native Hawaiian agency or organization responsible for administering the revolving loan fund and to define which Native American Pacific Islanders are eligible for ANA financial assistance.

DATES: Interested persons and agencies are invited to submit written comments concerning these interim final regulations by August 23, 1988.

ADDRESS: Comments should be submitted in writing or delivered to the Commissioner, the Administration for Native Americans, Attention: Jan Phalen, Office of Human Development Services, Department of Health and Human Services, 330 Independence Avenue SW., Room 5300, Washington, DC 20201. ANA's office hours are 9:00 a.m. to 5:30 p.m. on regular business days. Comments received may be inspected during the same hours by making arrangements with the contact person below.

FOR FURTHER INFORMATION CONTACT: Jan Phalen, ANA, (202) 245–7714.

SUPPLEMENTARY INFORMATION:

Program Purpose

The Native American Programs Act of 1974 (the Act) was originally enacted on January 4, 1975 (Pub. L. 93–644). The Act was reauthorized in 1978 (Pub. L. 95–568), in 1981 (Pub. L. 97–35), and in 1984 (Pub. L. 98–558). The Native American Programs Amendments Act of 1987, Title V of Pub. L. 100–175, extends programs under the Act through fiscal year 1991 and authorizes appropriations for fiscal years 1987 through 1991.

The Act established the Administration for Native Americans (ANA) within the Department of Health, Education and Welfare (now the Department of Health and Human Services). Until the amendments of 1987, its legislative mandate was to promote economic and social self-sufficiency for American Indians, Alaskan Natives, and Native Hawaiians. Under the 1987 amendments, ANA is also mandated to serve Native American Pacific Islanders.

The ANA mission is to fund programs aimed at providing community or tribal self-sufficiency. The ANA program defines self-sufficiency as the level of development at which a Native American community can control and internally generate resources to provide for the needs of its members and meet its own short and long range social and economic goals. It is the only agency within the Department of Health and Human Services which serves all Native Americans, without regard to where they live or their tribal or group affiliation. ANA's broad mission involves cooperative efforts with other Federal agencies to avoid duplication of programs and to maximize Federal dollars. The program operates under the philosophy that no Federal program, acting alone or in concert with other Federal programs, can achieve self-sufficiency for Native American tribes or groups. ANA programs promote the concept that self-sufficiency can be achieved only when Native Americans plan, design, and operate their own social and economic programs which address the particular needs of their communities.

Financial assistance under section 803(a) of the Act is provided through grants and contracts to a broad range of eligible native entities, including the governing bodies of Indian tribes on Federal and State reservations, Alaskan Native villages and regional corporations, public and private nonprofit agencies serving Native Hawaiians, and Indian organizations in urban and rural off-reservation areas.

ANA programs also authorize training and technical assistance for the purpose of assisting eligible entities in developing and administering projects. Research, demonstration and evaluation activities are authorized to assist in the development of new approaches that will enhance the social and economic development of local Native American communities.

Recent Legislative Changes

The Native American Programs Amendments of 1987 made several changes, two of which are reflected in these interim final regulations. Under the Act, eligible native entities now include public and nonprofit agencies serving other Native American Pacific Islanders including American Samoan Natives. The legislation also requires ANA to implement a five-year demonstration project to establish a Native Hawaiian Revolving Loan Fund (RLF).

The term Native American Pacific Islander refers to (1) Any Native Hawaiian; (2) any of the indigenous peoples residing in Guam, American Samoa, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands (comprised of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands); or (3) any individual whose direct ancestors are from Guam, American Samoa, the Northern Mariana Islands or the Trust Territory of the Pacific Islands. (Senate Report 100–140, pp. 9–10)

The first group in this category, Native Hawaiians, is already an eligible entity for purposes of participating in the ANA programs. In the second group only Guam, American Samoa, and the Northern Mariana Islands continue to be territories of the United States and thus eligible under ANA programs. The component jurisdictions of the Trust Territory of the Pacific Islands have chosen their own path toward sovereignty and are not eligible to receive ANA funds under the Act. By the Compact of Free Association, effective November 3, 1986, the Federated States of Micronesia and the Republic of the Marshall Islands ceased to be trust territories of the United States. Palau, the remaining island in the Pacific Trust Territory, approved its constitution in 1980 and is now known as the Republic of Palau. It is currently working toward an independent status. (Senate Report 100–140) Any public and nonprofit agency serving the indigenous peoples residing in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, or any public and nonprofit agency serving individuals whose direct ancestors are from these same islands are eligible to receive financial assistance from ANA.

Another change made by the 1987 amendments is to establish a revolving loan fund for Native Hawaiians. Under these interim final regulations, an

agency of the State of Hawaii or a community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians will be granted funds from ANA to administer a loan program for Native Hawaiian organizations and for individual Native Hawaiians to promote economic development.

ANA assistance to date has mostly been in the form of grants and contracts to a broad range of eligible Native American entities. The loan program complements this assistance by targeting a major problem: direct access to capital. The purpose of this demonstration project is to determine whether Native Americans can benefit from additional community-based assistance in the form of a loan fund.

Waiver of Notice and Comment Procedures

Under section 553(b)(3)(B) of Title 5, United States Code, and section 814(b)(3)(B) of the Act, for the reasons discussed below, the Department finds that good cause exists for concluding that use of notice and comment procedures will impair the effective administration of the program and, therefore, waiving the general notice of proposed rulemaking. An interim final rule is being published based on the requirements in section 508 of Title V of the Continuing Resolution for Fiscal Year 1988 (Pub. L. 100–202). Section 508 specifies that no part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year.

In order to award a grant for FY 1988 we must first publish regulations. The 1987 amendments to the Native American Program were not approved until November 30, 1987, two months after the fiscal year began. Since it takes approximately two weeks for mail to go and come from Hawaii, we would have to allow at least 45 days for comments and additional time for submitting applications. There is not sufficient time to publish a NPRM, receive and review comments, publish a final rule and then publish a program announcement, screen applications and obligate the funds to a grant award in Fiscal Year 1988.

With respect to expanding the definition for eligible applicants to include Native American Pacific Islanders, this is a change that is mandated by section 504 of the 1987 amendments. Therefore, since we have no discretion in the matter, notice and comment would serve no purpose.

In an effort to solicit and consider comments, on January 22, 1988, ANA published a Notice of Intent to Develop Regulations and Request for Comments, in the **Federal Register** (53 FR 1806). Twenty-two comments were received and they were considered in the development of this interim final rule.

Accordingly, the Secretary has determined that it would be impracticable, unnecessary, and contrary to the public interest to use notice and comment procedures in issuing these regulations. All comments received will be considered, and the rule will be revised if necessary.

Response to the Notice of Intent to Regulate

ANA published in the **Federal Register** on January 22, 1988 a Notice of Intent to Regulate. This notice was issued to comply with the statutory requirement of consultation. ANA received twenty-two comments from three organizations in response to the Notice of Intent to Regulate. Below, ANA has provided a summary of those comments and ANA's response to those comments.

Request to be the Loan Administrator

Comment. One commenter outlined the commenter's organizational qualifications and requested the award of the Revolving Loan Fund grant.

Response. A program announcement will solicit applications from eligible applicants. The grant award will be based on a competitive review process. Any organization or state agency that is eligible may apply to be the Loan Administrator.

Allocation of the Loan Monies

Comment. One commenter requested that 25% of the loan funds be made to Native Hawaiians of 50% aboriginal blood or more.

Response. ANA has no basis to impose such a requirement. The legislation does not limit the making of loans in that manner. ANA has no data to indicate that such a policy is necessary or proper to further the goals of the project.

Non-Federal Share

Comment. One commenter was concerned that ANA would require a 20% non-Federal match of the Revolving Loan Fund.

Response. Section 803(b) of the Statute requires a 20% non-Federal match. The program announcement will reflect this requirement. However, the Commissioner may waive the match requirement based on 45 CFR 1336.50 Native American Program Regulations.

Development Period

Comment. One organization made a number of comments indicating that because this is a demonstration project there must be a period of development and testing before any direct loans may be made.

Response. The program announcement will address the time frame that may be necessary for the start-up of the Revolving Loan Fund. Because of the one-time nature of this project, and because making loans is not such a unique activity, ANA does not believe that any qualified applicant should have to engage in any protracted development and testing prior to making direct loans.

Eligible Borrower

Comment. One commenter requested that "Small Business Concern" be added to the eligibility criteria for a borrower.

Response. ANA finds that the language in the statute sufficiently describes the eligible borrowers to ensure that the target population is reached.

Loan Procedures

Comment. A number of comments were received from one organization suggesting precise points to be covered in the loan procedures of the Revolving Loan Fund, such as defining the purpose of the loans, loan criteria, application procedures and loan review considerations, limits on loan amounts and equity capitalization, collateral for loans, default procedures, and technical assistance to borrowers.

Response. The interim final regulations require that the Loan Administrator, prior to making a loan, develop and submit to the Commissioner of ANA for approval a number of procedural items which are in outline format in the regulations. The above topics are included. ANA expects the Loan Administrator to develop the precise procedures for the Revolving Loan Fund. ANA considers that it is the responsibility of the Loan Administrator, which will be a part of and knowledgable about the Native Hawaiian community, to develop the specific Revolving Loan Fund procedures and guidelines, which will be consistent with OMB Circulars A–70 and A–129.

Award of the Full $3 Million

Comment. One commenter asked that the full $3 million be granted up-front to allow the Loan Administrator to invest excess funds in obligations of the United States.

Response. While the legislation authorizing the RLF also authorizes the appropriation for fiscal years 1988, 1989, and 1990 in the aggregate amount of $3 million, ANA cannot award those funds until there is an appropriation for those funds; $957,000 has been appropriated for Fiscal Year 1988. Payments under the grant will be handled in accordance with existing Government-wide grant payment requirements, which the Department has incorporated in 45 CFR Parts 74 and 92.

Interest Rate

Comment. One commenter suggested that the interest rate charged for loans be adjustable on a yearly basis.

Response. The statute prescribes the means for setting interest rates.

Close of the Five-Year Demonstration Period

Comment. One commenter suggests that the specific date of the end of the five-year period be specified.

Response. The interim final regulations do specify that date as November 29, 1992.

Borrowers' Records, Reports and Inspection of the Premises

Comment. One commenter proposed requirements for borrowers in relation to the inspection by the RLF of the records and premises of the borrower and the submission to the RLF of specific reports by the borrower.

Response. Again, it is ANA's expectation that the Loan Administrator will develop these precise requirements and submit them for the Commissioner's approval. Any specific requirements by the RLF for the borrower should be reflected in the terms of the Loan Agreement, not in these regulations.

Separate Account

Comment. One commenter asked that "separate account" be clarified.

Response. The requirement that the Loan Fund be established as a separate account means that the Loan Fund has a separate common accounting number for Federal accounting purposes.

Beyond the Five Year Period

Comment. One commenter asked that the costs of loan monitoring and debt collection beyond the five-year period be recognized and allocated.

Response. This concern is addressed in the interim final regulations in § 1336.73.

Regulatory Provisions

The interim final regulations consist of two parts. The first adds the definitions of Native American Pacific Islander to § 1336.30(c), *Eligibility.* The second creates a new Subpart F, Native Hawaiian Revolving Loan Fund Demonstration Project.

The loan fund will be managed by an agency of the State of Hawaii or a community-based Native Hawaiian organization to make loans to Native Hawaiian individuals or to Native Hawaiian organizations. The interim final regulations include the procedures the managing agency must follow in the making of such loans, the collection of the loans, and the reporting requirements.

ANA used revolving loan fund regulations and procedures from the Bureau of Indian Affairs (BIA), the Economic Development Administration (EDA), and the Office of Community Services (OCS), HHS, as models for the development of these interim final regulations since the experience of the other agencies is that they are sufficient for the responsible and effective administration of such revolving loan funds. It is ANA's intent to be precise about the requirements which the Loan Administrator must meet prior to making a direct loan in order to shorten the time needed for development of the fund procedures, to lengthen the time available in the five-year period in which loans may be made, and to ensure consistency with the Administration's program to improve credit management.

Section-by-Section Discussion of the Regulations

Section 1336.60 Purpose of the Subpart

This section addresses the purpose of the new subpart.

Section 1336.61 Purpose of the Revolving Loan Fund

This section defines the purpose of the RLF demonstration project. It specifies how the loan fund is to be used to accomplish the purpose specified in the Act. The primary purpose of the RLF is to provide to Native Hawaiian businesses financial assistance which is otherwise unavailable from financial agencies or institutions.

Section 1336.62 Definitions

This section defines certain key words that are used in the subpart. They include such terms as applicant, loan administrator, Native Hawaiian, economic enterprise.

The requirement that the businesses applying for and obtaining direct loans from the RLF be 100 percent Native Hawaiian-owned is necessary to ensure that the loans made have the greatest impact on the Native Hawaiian community.

Section 1336.63 General Responsibilities of the Loan Administrator

This section specifies the requirements the Loan Administrator must meet in developing and obtaining approval for the operating plans for the RLF. ANA believes these minimum requirements are a necessary basis for the operation of a revolving loan fund. They are similar to other governmental requirements for revolving loan funds. ANA drew on the prior experience and expertise of BIA, EDA and OCS in developing these and other requirements.

Section 1336.64 Development of Goals and Strategies: Responsibilities of the Loan Administrator

This section specifies the goals and strategies a Loan Administrator must develop to obtain the Commissioner's approval prior to making a direct loan. The goals of a loan fund are necessary to provide an explication of purposes and intent for the RLF to the community it serves. ANA believes that before an agency or organization can support economic development for its members, it must establish short and long range goals and specific economic and administrative strategies which become the foundation for the setting of priorities in making direct loans. The goals and strategies of the RLF then become the basis for the overall operation of the RLF.

Section 1336.65 Staffing and Organization of the Fund: Responsibilities of the Loan Administrator

This section addresses the staffing of the RLF, loan review committee and board and the responsibilities and procedures which must be developed by the Loan Administrator and approved by the Commissioner prior to making loans. ANA believes these four organizational requirements are the minimum that must be specified to assure an organizational structure/basis for the operation of the RLF.

Section 1336.66 Procedures and Criteria for Administration of the Revolving Loan Fund: Responsibilities of the Loan Administrator

This section describes those loan making processes which must be developed by the Loan Administrator and approved by the Commissioner before loans may be made, including the preapplication process, the screening of loan applications, the loan application package, the criteria for evaluation of the loan applications, procedures for the

loan decision-making process and guidelines and documents for the loan closing process. ANA believes that adequate loan procedures must be developed prior to loans being made. Clear loan making procedures provide a legal basis for the Loan Administrator's staff to follow in processing loans. It is the Department's intent that the loan monies be made available to the community as speedily as possible and with as much assurance of 100% payback to ensure that the principal is available to be loaned again. Having an approved set of procedures with which to work means that the making of loans can be begun soon after the grant award is made.

Section 1336.67 Security and Collateral: Responsibilities of the Loan Administrator

Collateral is not required by statute for each loan made, but the Loan Administrator may require collateral if he deems it necessary to secure the loan. This section provides guidance to the Loan Administrator on the type of collateral which may be required from a borrower. The taking of collateral by the Loan Administrator will be one of many factors considered in the loan making process. Additional security may also be required after the loan is made at the discretion of the Loan Administrator.

Section 1336.68 Defaults, Uncollectible Loans, Liquidations: Responsibilities of the Loan Administrator

This section requires that the Loan Administrator develop and obtain the Commissioner's approval for procedures pertaining to defaults, uncollectible loans and liquidations. A copy of these procedures must be given to each applicant at the time the loan application is made.

The statute requires the Loan Administrator to notify the Commissioner of uncollectible loans or loans collectible only at an unreasonable cost and to make recommendations for further action. The actions that the Commissioner may direct the Loan Administrator to take concerning such loans are specified in paragraph (d). It is not ANA's intent to actively seek the sale or takeover of assets of a business in a loan default, but rather to encourage the Loan Administrator to provide competent loan servicing and technical assistance to minimize the number of loan defaults.

Section 1336.69 Reporting Requirements: Responsibilities of the Loan Administrator

This section specifies the reports which ANA requires the Loan Administrator to maintain internally and those which must be submitted to ANA on a quarterly basis. The primary purpose of these requirements is that the Loan Administrator must maintain sufficient files to provide competent loan decision making and loan servicing to its clients in order to establish and operate a professional loan fund comparable to other lending agencies or institutions in Hawaii.

In addition, ANA must report to Congress at the end of the second and fourth year of the demonstration project. The reports to Congress must include the Department's views and recommendations regarding the effectiveness of the demonstration project, whether the demonstration project should be expanded to other groups eligible for assistance under ANA's legislation, and whether the duration of the project should be extended. ANA must be kept informed of the status of the RLF and the progress being made in order to make recommendations to Congress.

Section 1336.70 Technical Assistance: Responsibilities of the Loan Administrator

By statute, the Loan Administrator must provide competent management and technical assistance to borrowers. This section addresses that technical assistance. The purpose of the assistance is to increase the efficacy of the borrower's business expertise and decrease the number of loan defaults or at-risk businesses. Costs for the technical assistance provided may be paid from the RLF.

Section 1336.71 Administrative Costs

This section allows administrative costs of the fund to be paid from the RLF. However, it is ANA's intent that funds in the RLF be used to the maximum extent possible for direct loans rather than for administrative costs. The program announcement will require the grantee to provide a 20% non-Federal match. The matching funds from the grantee will be used to supplement any funds from the RLF that must be used for administrative costs. The grant award document will set forth the allowable administrative costs during the five-year demonstration period.

Section 1336.72 Fiscal Requirements

Much of the language of this section is taken from Section 803A of the Act. The section clarifies what use will be made of the monies in the fund during the five-year project, at the end of the project period, and after the project terminates. Of special note is the requirement that the Loan Administrator assume responsibility for collection of outstanding loans after the five-year project ends and without additional financial assistance from ANA. At the end of the five-year period ANA will make a determination of what monies from the fund in the way of interest charges, late fees, and investment income that are in the Fund at that time will be necessary to collect loan payments until all loans are closed. That sum of money will be made available to the Loan Administrator. All other monies currently in the Loan Fund and subsequently collected by the Fund will be returned to the Treasury of the United States.

Section 1336.73 Eligible Borrowers

Paragraph (d) of this section specifies the eligible borrowers from the loan fund. ANA believes this list represents all categories of individuals and entities eligible to apply for loans. Our intent was not to omit any category of eligible applicants and the interim final regulations will be amended if necessary to include additional categories. An eligible borrower must be able to show that it has been unable to obtain financing from other sources on reasonable terms and conditions.

Section 1336.74 Time Limits and Interest

Section 803A of the Act specifies time limits on loans and the rate of interest to be charged. The language in this section is taken from the statute. The loans made from the fund may not exceed a five year period. Interest charged is to be at a rate of two percent below the average market yield on the most recent public offering of United States Treasury bills occurring before the date on which the loan is made.

Section 1336.75 Allowable Loan Activities

This section lists examples of activities which are eligible for loans. It is expected that the Loan Administrator, subject to the approval of the Commissioner, will extend the list to include other activities. The activities in this list are from the EDA Revolving Loan Fund guidelines and from the OCS Revolving Loan Fund regulations. ANA believes that these and other similar activities carry out the intent of the Revolving Loan Fund, to promote economic development for Native Hawaiians. ANA thinks these are types of activities which will foster the development and growth of the Native Hawaiian community economically and as a result will increase the number of

jobs in the community. Of course, we invite comment and hope that the public and the Loan Administrator will suggest other areas of allowable loan activities.

Section 1336.76 Unallowable Loan Activities

This section lists activities which are ineligible for loans under the Loan Fund. Again, it is not an all inclusive list. The list is similar to the one in the EDA's Revolving Loan Fund guidelines. ANA adopted the list, with some modifications, because it will provide some guidance for the Loan Administrator in developing the final list of unallowable loan activities.

Loans which support activities moved from the State of Hawaii do not support the purpose of the demonstration project, which is to provide direct loans to Native Hawaiian businesses and individuals to expand the Native Hawaiian economic base in Hawaii.

ANA is interested in the Loan Administrator lending money to start or expand businesses, to increase jobs, and to assist a business meet cash and credit needs. ANA is not interested in providing funds for passive business activities, such as investment. Using the loan money to invest in higher interest accounts or to relend to another borrower does not fulfill the intent of the legislation.

The purchase of land or buildings or the construction of buildings are unallowable loan activities because of the size of the Revolving Loan Fund. The cost of construction and real estate in Hawaii is such that the relatively small amount in the Fund would not make much impact on the Native Hawaiian community as a whole if these activities were allowed. The prohibition on the construction of buildings does not prohibit loan money being used for the indirect costs of a construction company. The money just cannot be used for actual construction costs.

The purchasing of equity in private businesses is an unallowable activity because ANA does not believe this purpose is in accordance with the intent of the Revolving Loan Fund. If a business needs additional financing, it should apply for a loan from the RLF directly. It is not the goal of the RLF to loan money to an intermediary to buy equity in or make loans to an existing business.

Section 1336.77 Recovery of Funds

This section specifically provides that disallowances of costs and losses to the Loan Fund will be taken by the Department under appropriate circumstances. While the Department believes that such authority exists under existing statutory and regulatory authority, it was decided to expressly provide for it in the regulations due to the unique nature of this program. The regulation provides that disallowances will be taken whenever the Loan Administrator has violated appropriate provisions of 45 CFR Part 74, Administration of Grants, as well as for violations of the Act, specific provisions of these regulations, other applicable provisions of Federal and State law, or any combination of such violations. Whenever a disallowance is taken, the Loan Administrator will have the right to appeal to the Departmental Grant Appeals Board. If a disallowance is not appealed, or if it is upheld on appeal by the Grant Appeals Board, the Loan Administrator will have to repay to the Loan Fund, from non-Federal sources, whatever amount has been disallowed.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more or certain other specified effects. These interim final regulations will affect only the grantee in Hawaii selected to administer the RLF. The basic requirements of the program are established by the statute, not these regulations. Therefore, the Department concludes that these interim final regulations are not major rules within the meaning of the Executive Order because they do not have an effect on the economy of $100 million or more or meet the threshold criteria.

Regulatory Flexibility Act of 1980

Consistent with the Regulatory Flexibility Act (5 U.S.C. Channel 6), we try to anticipate and reduce the impact of rules and paperwork requirements on small business. For each rule with a significant economic impact on a substantial number of "small entities," we prepare an analysis describing the rule's impact on small entities. The impact of these interim final regulations will be on the grantee selected as the Loan Administrator in Hawaii, which is not considered a "small entity" within the meaning of the Act. For this reason, the Secretary certifies that this interim final rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, all Departments are required to submit to the Office of Management and Budget for review and approval any reporting or recordkeeping requirements contained in a proposed or final rule.

As required by section 3504(h) of the Paperwork Reduction Act of 1980, we will submit a copy of these interim final regulations to the Office of Management and Budget (OMB) for its review of these information collection requirements. This interim final rule contains information collection requirements in §§ 1336.63(b), 1336.66(c) and 1336.69(b) which will be submitted to OMB for approval. There will be no specific format for the submittal of this report as long as it meets the requirements of the Act and these regulations.

Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, Room 3208, Washington, DC 20503, ATTN: Desk Officer for HHS.

List of Subjects in 45 CFR Part 1336

Native American Pacific Islander, Native Hawaiian Revolving Loan Fund, Economic development.

For the reasons set forth in the preamble, Title 45 of the Code of Federal Regulations is amended as follows:

PART 1336—NATIVE AMERICAN PROGRAMS

1. The authority citation for Part 1336 is revised to read as follows:

Authority: 42 U.S.C. 2991, *et seq.*

2. Section 1336.30 is amended by adding a new paragraph (c) to read as follows:

§ 1336.30 Eligibility.

* * * * *

(c) Financial assistance under section 803 may be made to public and nonprofit private agencies serving native peoples from American Samoa, Guam and the Northern Mariana Islands subject to the availability of funds.

3. Part 1336 is amended by adding a new Subpart F to read as follows:

Subpart F—Native Hawaiian Revolving Loan Fund Demonstration Project

Sec.

Sec.

Authority: 88 Stat. 2324, 101 Stat. 976 (42 U.S.C. 2991, *et seq.*).

§ 1336.60 Purpose of this subpart.

(a) The Administration for Native Americans will award a five-year demonstration grant to one agency of the State of Hawaii or to one community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians to develop procedures for and to manage a revolving loan fund for Native Hawaiian individuals and organizations in the State of Hawaii. (Section 830A(a)(1))

(b) This subpart sets forth the requirements that the organization or agency selected to administer the revolving loan fund must meet and the terms and conditions applicable to loans made to borrowers from the loan fund.

§ 1336.61 Purpose of the Revolving Loan Fund.

The purpose of the Native Hawaii an Revolving Loan Fund is to provide funding not available from other sources on reasonable terms and conditions to:

(a) Promote economic activities which result in expanded opportunities for Native Hawaiians to increase their ownership of, employment in, or income from local economic enterprise;

(b) Assist Native Hawaiians to overcome specific gaps in local capital markets and to encourage greater private-sector participation in local economic development activities; and

(c) Increase capital formation and private-sector jobs for Native Hawaiians. (Section 803A(a)(1)(A))

§ 1336.62 Definitions.

Applicant means an applicant for a loan from the Native Hawaiian Revolving Loan Fund. An applicant must be an individual Native Hawaiian or a Native Hawaiian organization. If the applicant is a group of people organized for economic development purposes, the applicant ownership must be 100% Native Hawaiian.

Commissioner means the Commissioner of the Administration for Native Americans.

Cooperative association means an association of individuals organized pursuant to State or Federal law, for the purpose of owning and operating an economic enterprise for profit, with profits distributed or allocated to patrons who are members of the organization.

Corporation means an entity organized pursuant to State or Federal law, as a corporation, with or without stock, for the purpose of owning and operating an economic enterprise.

Default means failure of a borrower to make scheduled payments on a loan, failure to obtain the lender's approval for disposal of assets mortgaged as security for a loan, or failure to comply with the convenants, obligations or other provisions of a loan agreement.

Economic enterprise means any Native Hawaiian-owned, commercial, industrial, agricultural or other business activity established or organized for the purpose of profit.

Financing statement means the document filed or recorded in country or State offices pursuant to the provisions of the Uniform Commercial Code as enacted by Hawaii notifying third parties that a lender has a lien on the chattel and/or crops of a borrower.

Loan Administrator means either the agency of the State of Hawaii or the community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians selected to administer the revolving loan fund.

Mortgages mean mortgages and deeds of trust evidencing an encumbrance of trust or restricted land, mortgages and security agreements executed as evidence of liens against crops and chattels, and mortgages and deeds of trust evidencing a lien on leasehold interests.

Native Hawaiian means an individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

Partnership means two or more persons engaged in the same business, sharing its profits and risks, and organized pursuant to state or Federal law.

Profits mean the net income earned after deducting operating expenses from operating revenues.

Revolving Loan Fund (RLF) means all funds that are now or are hereafter a part of the Native Hawaiian Revolving Loan Fund authorized by the Native American Programs Act of 1974, as amended in 1987, and supplemented by sums collected in repayment of loans made, including interest or other charges on loans and any funds appropriated pursuant to Section 803A of the Native American Programs Act of 1974, as amended.

§ 1336.63 General responsibilities of the Loan Administrator.

(a) The Loan Administrator will make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose or promoting economic development among Native Hawaiians in the State of Hawaii. (Section 803(a)(1)(A).)

(b) Prior to any loan being made from the RLF, the Loan Administrator will develop and obtain the Commissioner's approval of the following organizational and administrative materials necessary to implement the RLF:

(1) Goals and strategies;

(2) Staffing and organizational responsibilities;

(3) Preapplication and loan screening processes;

(4) Loan procedures including application forms;

(5) Criteria and procedures for loan review, evaluation and decision-making;

(6) Loan closing procedures; and

(7) Procedures for loan servicing, monitoring and provision of technical assistance.

(c) The Loan Administrator will set up fiscal management procedures to satisfy the requirements of section 803A of the Native American Programs Act and this subpart.

(d) The Loan Administrator must set up a separate account for the RLF into which all payments, interest, charges, and other amounts collected from loans made from the RLF will be deposited.

§ 1336.64 Development of goals and strategies: Responsibilities of the Loan Administrator.

(a) Prior to the approval of any direct loan under the RLF, the Loan Administrator will develop and obtain the Commissioner's approval for a clear and comprehensive set of goals and strategies for the RLF. The goals will specify the results the Loan Administrator expects to accomplish

from the Revolving Loan Fund, define the RLF's role and responsibilities for potential users, and serve as the basis for the development of an organizational strategy and operating plan. The RLF strategies will provide the Loan Administrator with a sound understanding of the economic and market conditions within the Native Hawaiian community.

(b) The following factors shall be considered by the Loan Administrator in developing the RLF's goals:

(1) Employment needs of the local population;

(2) Characteristics of the local economic base;

(3) Characteristics of the local capital base and the gaps in the local availability of business capital;

(4) Local resources for economic development and their availability; and

(5) Goals and strategies of other local organizations involved in economic development.

(c) The loan fund strategies developed by the Revolving Loan Fund must include the following:

(1) *Business Targeting Strategy:* to determine which types of businesses are to be targeted by the loan fund. The Loan Administrator will develop procedures to ensure that the loans made are directed to Native Hawaiians.

(2) *Financing Strategy:* to determine the types of financing the loan fund will provide;

(3) *Business Assistance Strategy:* to identify the possible or potential management problems of a borrower and develop a workable plan for providing borrowers with the needed management assistance;

(4) *Marketing Strategy:* to generate applications from potential borrowers and to generate the support and participation of local financial institutions;

(5) *Capital Base Management Strategy:* to develop and allocate the financial resources of the fund in the most effective possible way to meet the need or demand for financing; and

(6) *Accountability Strategy:* to develop policies and mechanisms to hold borrowers accountable for providing the public benefits promised (e.g. jobs) in return for financing; to ensure that, until expenditure, loan proceeds are held by the borrower in secured, liquid financial instruments; to hold borrowers accountable for upholding the commitments made prior to the loan; and to develop the methods used by the RLF to enforce these commitments.

§ 1336.65 Staffing and organization of the Revolving Loan Fund: Responsibilities of the Loan Administrator.

Prior to the approval of any direct loan under the RLF, the Loan Administrator must develop and obtain the Commissioner's approval for the RLF's organization table, including:

(a) The structure and composition of the Board of Directors of the RLF;

(b) The staffing requirements for the RLF, with position descriptions and necessary personnel qualifications;

(c) The appointments to the advisory loan review committee; and

(d) The roles and responsibilities of the Board, staff and loan review committee.

§ 1336.66 Procedures and criteria for administration of the Revolving Loan Fund: Responsibilities of the Loan Administrator.

Prior to the approval of any direct loan under the RLF, the Loan Administrator must develop and obtain the Commissioner's approval for the following procedures:

(a) *Preapplication and loan screening procedures.* Some factors to be considered in the loan screening process are:

(1) General eligibility criteria;

(2) Potential economic development criteria;

(3) Indication of business viability;

(4) The need for RLF financing; and

(5) The ability to properly utilize financing.

(b) *Application process.* The application package includes forms, instructions, and policies and procedures for the loan application. The package must also include instructions for the development of a business and marketing plan and a financing proposal from the applicant.

(c) *Loan evaluation criteria and procedures.* The loan evaluation must include the following topics:

(1) General and specific business trends;

(2) Potential market for the product or service;

(3) Marketing strategy;

(4) Management skills of the borrower;

(5) Operational plan of the borrower;

(6) Financial controls and accounting systems;

(7) Financial projections; and

(8) Structure of investment and financing package.

(d) *Loan decision-making process.* Decision-making on a loan application includes the recommendations of the staff, the review by the loan review committee and the decision by the Board.

(e) *Loan closing process.* The guidelines for the loan closing process include the finalization of loan terms; conditions and covenants; the exercise of reasonable and proper care to ensure adherence of the proposed loan and borrower's operations to legal requirements; and the assurance that any requirement for outside financing or other actions on which disbursement is contingent are met by the borrower.

(f) *Loan closing documents.* Documents used in the loan closing process include:

(1) *Term Sheet:* an outline of items to be included in the loan agreement. It should cover the following elements:

(i) Loan terms;

(ii) Security interest;

(iii) Conditions for closing the loan;

(iv) Covenants, including reporting requirements;

(v) Representations and warranties;

(vi) Defaults and remedies; and

(vii) Other provisions as necessary.

(2) *Closing Agenda:* an outline of the loan documents, the background documents, and the legal and other supporting documents required in connection with the loan.

(g) *Loan servicing and monitoring.* The servicing of a loan will include collections, monitoring, and maintenance of an up-to-date information system on loan status.

(1) *Collections:* To include a repayment schedule, invoice for each loan payment, late notices, provisions for late charges.

(2) *Loan Monitoring:* To include regular reporting requirements, periodic analysis of corporate and industry information, scheduled telephone contact and site visits, regular loan review committee oversight of loan status, and systematic internal reports and files.

§ 1336.67 Security and collateral: Responsibilities of the Loan Administrator.

The Loan Administrator may require any applicant for a loan from the RLF to provide such collateral as the Loan Administrator determines to be necessary to secure the loan. (Section 803A(b)(3))

(a) *As a Credit Factor.* The availability of collateral security normally is considered an important factor in making loans. The types and amount of collateral security required should be governed by the relative strengths and weaknesses of other credit factors. The taking of collateral as security should be considered with respect to each loan. Collateral security should be sufficient to provide the lender reasonable protection from loss

in the case of adversity, but such security or lack thereof should not be used as the primary basis for deciding whether to extend credit.

(b) *Security Interests.* Security interests which may be taken by the lender include, but are not limited to, liens on real or personal property, including leasehold interests; assignments of income and accounts receivable; and liens on inventory or proceeds of inventory sales as well as marketable securities and cash collateral accounts.

(1) *Motor vehicles.* Liens ordinarily should be taken on licensed motor vehicles, boats or aircraft purchased hereunder in order to be able to transfer title easily should the lender need to declare a default or repossess the property.

(2) *Insurance on property secured.* Hazard insurance up to the amount of the loan or the replacement value of the property secured (whichever is less) must be taken naming the lender as beneficiary. Such insurance includes fire and extended coverage, public liability, property damage, and other appropriate types of hazard insurance.

(3) *Appraisals.* Real property serving as collateral security must be appraised by a qualified appraiser. For all other types of property, a valuation shall be made using any recognized, standard technique (including standard reference manuals), and this valuation shall be described in the loan file.

(c) *Additional security.* The lender may require collateral security or additional security at any time during the term of the loan if after review and monitoring an assessment indicates the need for such security.

§ 1336.68 Defaults, uncollectible loans, liquidations: Responsibilities of the Loan Administrator.

(a) Prior to making loans from the RLF, the Loan Administrator will develop and obtain the Commissioner's approval for written procedures and definitions pertaining to defaults and collections of payments. (Section 803A(b)(4))

(b) The Loan Administrator will provide a copy of such procedures and definitions to each applicant for a loan at the time the application is made. (Section 803A(b)(4))

(c) The Loan Administrator will report to the Commissioner whenever a loan recipient is 90 days in arrears in the repayment of principal or interest or has failed to comply with the terms of the loan agreement. After making reasonable efforts to collect amounts payable, as specified in the written procedures, the Loan Administrator shall notify the Commissioner whenever a loan is uncollectible at reasonable cost. The notice shall include recommendations for future action to be taken by the Loan Administrator. (Section 803A(c) (1) and (2))

(d) Upon receiving such notices, the Commissioner will, as appropriate, instruct the Loan Administrator:

(1) To demand the immediate and full repayment of the loan;

(2) To continue with its collection activities;

(3) To cancel, adjust, compromise, or reduce the amount of such loan;

(4) To modify any term or condition of such loan, including any term or condition relating to the rate of interest or the time of payment of any installment of principal or interest, or portion thereof, that is payable under such loan;

(5) To discontinue any further advance of funds contemplated by the loan agreement;

(6) To take possession of any or all collateral given as security and in the case of individuals, corporations, partnerships or cooperative associations, the property purchased with the borrowed funds;

(7) To prosecute legal action against the borrower or against the officers of the borrowing organization;

(8) To prevent further disbursement of credit funds under the control of the borrower;

(9) To assign or sell at a public or private sale, or otherwise dispose of for cash or credit any evidence of debt, contract, claim, personal or real property or security assigned to or held by the Loan Administrator; or

(10) To liquidate or arrange for the operation of economic enterprises financed with the revolving loan until the indebtedness is paid or until the Loan Administrator has received acceptable assurance of its repayment and compliance with the terms of the loan agreement. (Section 803A(c)(2)(B))

§ 1336.69 Reporting requirements: Responsibilities of the Loan Administrator.

(a) The Loan Administrator will maintain the following internal information and records:

(1) For each borrower: The loan repayment schedule, log of telephone calls and site visits made with the date and the items discussed, correspondence with the borrower, progress reports and analyses.

(2) Monthly status of all outstanding loans, noting all overdue payments.

(3) Monthly status of the investments of the revolving loan fund monies not currently used for loans.

(4) Monthly records on the revenue generated by the loan fund from interest charges and late charges.

(5) Monthly administrative costs of the management of the loan fund and the sources of the monies to support the administrative costs.

(b) The Loan Administrator must submit a quarterly report to the Commissioner. The report may be in a format of the choice of the Loan Administrator as long as it includes at a minimum the following topics:

(1) For each borrower:

(i) Name of the borrower;

(ii) Economic development purpose(s) of the loan;

(iii) Financing of the loan by source;

(iv) Loan status (current/delinquent/paid);

(v) Principal and interest outstanding; and

(vi) Amount delinquent/defaulted, if any.

(2) Financial status of the RLF:

(i) Administrative cost expenditures;

(ii) Level of base capital;

(iii) Level of current capital;

(iv) Amount of ANA funding;

(v) Matching share;

(vi) Other direct funding of the RLF;

(vii) Program income, including interest on loans, earnings from investments, fee charges;

(viii) Loans made;

(ix) Losses on loans;

(x) Principal and interest outstanding;

(xi) Loans repaid;

(xii) Delinquent loans; and

(xiii) Collateral position of the RLF (the value of collateral as a percent of the outstanding balance on direct loans).

(c) The Loan Administrator must submit a semi-annual report to the Commissioner containing an analysis of the RLF progress to date.

(d) The Loan Administrator must submit to the Department a quarterly SF–269, Financial Status Report, or any equivalent report required by the Department.

§ 1336.70 Technical assistance: Responsibilities of the Loan Administrator.

The Loan Administrator will assure that competent management and technical assistance is available to the borrower consistent with the borrower's knowledge and experience and the nature and complexity of the economic enterprise being financed by the RLF. Consultants, RLF staff, and members of the loan review committee and Board may be used to assist borrowers. (Section 803A(d)(1)(B))

§ 1336.71 Administrative costs.

Reasonable administrative costs of the RLF may be paid out of the loan fund. The grant award agreement between the Loan Administrator and ANA will set forth the allowable administrative costs of the loan fund during the five-year demonstration period. (Sections 803A(a)(2) and 803A(d)(1)(A))

§ 1336.72 Fiscal requirements.

(a) Any portion of the revolving loan fund that is not required for expenditure must be invested in obligations of the United States or in obligations guaranteed or insured by the United States.

(b) Loans made under the RLF will be for a term that does not exceed five years.

(c) No loan may be made by the RLF after November 29, 1992, the close of the five-year period of the demonstration project. (Section 803A(b)(6))

(d) All monies that are in the revolving loan fund on November 29, 1992 and that are not otherwise needed (as determined by the Commissioner) to carry out the provisions of this subpart must be deposited in the Treasury of the United States as miscellaneous receipts. The Commissioner will make this determination based on reports, audits and other appropriate documents as determined by the Commissioner. The Commissioner will take into consideration the costs necessary to collect loans outstanding beyond November 29, 1992, which costs may be paid from interest and loan charges collected by the Fund and in the Fund as of November 29, 1992. To use monies in the Fund for the costs of collection after November 29, 1992, the Commissioner must give prior approval for such use.

(e) All monies deposited in the revolving loan fund after November 29, 1992 must be deposited in the Treasury of the United States as miscellaneous receipts.

(f) After November 29, 1992, the Loan Administrator will assume responsibility for the collection of all outstanding loans without additional financial assistance from ANA.

§ 1336.73 Eligible borrowers.

(a) Loans may be made to eligible applicants only if the Loan Administrator determines that the applicant is unable to obtain financing on reasonable terms and conditions from other sources such as banks, Small Business Administration, Production Credit Associations, Federal Land Banks; and

(b) Only if there is a reasonable prospect that the borrower will repay the loan. (Section 803A(b)(1) (A) and (B))

(c) The Loan Administrator will determine an applicant's inability to obtain financing elsewhere on reasonable terms and conditions from documentation provided by the applicant.

(d) Those eligible to receive loans from the revolving loan fund are:

(1) Native Hawaiian individuals.

(2) Native Hawaiian non-profit organizations.

(3) Native Hawaiian businesses.

(4) Native Hawaiian cooperative associations.

(5) Native Hawaiian partnerships.

(6) Native Hawaiian associations.

(7) Native Hawaiian corporations.

§ 1336.74 Time limits and interest on loans.

(a) Loans made under the RLF will be for a term that does not exceed 5 years.

(b) Loans will be made to approved borrowers at a rate of interest that is 2 percentage points below the average market yield on the most recent public offering of United States Treasury bills occurring before the date on which the loan is made. (Section 803A(b)(2) (A) and (B))

§ 1336.75 Allowable loan activities.

The following are among those activities for which a loan may be made from the RLF:

(a) The establishment or expansion of businesses engaged in commercial, industrial or agricultural activities, such as farming, manufacturing, construction, sales, service;

(b) The establishment or expansion of cooperatives engaged in the production and marketing of farm products, equipment, or supplies; the manufacture and sale of industrial, commercial or consumer products; or the provision of various commercial services;

(c) Business or job retention;

(d) Small business development;

(e) Private sector job creation; and

(f) Promotion of economic diversification, e.g. targeting firms in growth industries that have not previously been part of a community's economic base.

§ 1336.76 Unallowable loan activities.

The following activities are among those activities not eligible for support under the revolving loan fund:

(a) Loans to the Loan Administrator or any representative or delegate of the Loan Administrator (Section 803A(b)(5));

(b) Loans which would create a potential conflict-of-interest for any officer or employee of the Loan Administrator; loan activities which directly benefit these individuals, or persons related to them by marriage, or law.

(c) Eligible activities which are moved from the State of Hawaii;

(d) Investing in high interest account, certificates of deposit or other investments;

(e) Relending of the loan amount by the borrower;

(f) The purchase of land or buildings;

(g) The construction of buildings; and

(h) Purchasing or financing equity in private businesses.

§ 1336.77 Recovery of funds.

(a) Funds provided under this Subpart may be recovered by the Commissioner for both costs of administration of the Loan Fund and losses incurred by the Fund (hereafter jointly referred to as "costs") under the following circumstances:

(1) Whenever claimed costs are unallowable under the Native Americans Programs Act of 1974, as amended, or under 45 CFR Part 74, or both;

(2) For costs for loans made to ineligible persons or entities as defined in § 1336.73;

(3) For costs connected with the default of a borrower when the Loan Administrator has failed to perfect any security interest or when the Loan Administrator has failed to obtain collateral when provision of collateral is a condition of a loan.

(4) For costs connected with any default when the Loan Administrator has failed to perform a proper check of an applicant's credit;

(5) For costs whenever the Loan Administrator has failed to notify the Commission of loans at risk as required by § 1336.68 of these regulations, and as may be required by the procedures approved pursuant to that regulation;

(6) For costs whenever the Loan Administrator has failed to follow properly instructions provided to it by the Commissioner pursuant to § 1336.68(d) of these regulations;

(7) For costs which are incurred due to faulty record keeping, reporting, or both; or

(8) For costs which are in connection with any activity or action which violates any Federal or State law or regulation not specifically identified in these regulations.

(b) Whenever the Commissioner determines that funds have been improperly utilized or accounted for, he will issue a disallowance pursuant to the Act and to 45 CFR Part 74 and will notify the Loan Administrator of its

appeal rights, which appeal must be taken pursuant to 45 CFR Part 16.

(c) If a disallowance is taken and not appealed, or if it is appealed and the disallowance is upheld by the Departmental Grant Appeals Board, the Loan Administrator must repay the disallowed amount to the Loan Fund within 30 days, such repayment to be made with non-Federal funds.

(Catalog of Federal Domestic Assistance Number 13.612)

Date: May 17, 1988

Sydney Olson,

Assistant Secretary for Human Development Services.

Approved: May 23, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88-14296 Filed 6-23-88; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Announcement No. 13612-8833]

Native Hawaiian Revolving Loan Fund Demonstration Project; Program Announcement

AGENCY: Administration for Native Americans (ANA), Office of Human Development Services (OHDS), Department of Health and Human Services.

ACTION: Announcement of availability of competitive financial assistance for a Native Hawaiian Revolving Loan Fund Demonstration Project.

SUMMARY: The Administration for Native Americans announces the availability of fiscal year 1988 funds for a Native Hawaiian Revolving Loan Fund Demonstration project. The financial assistance provided by ANA is designed to implement a five-year demonstration project, financed by Fiscal Year 1988 appropriations, to establish a Native Hawaiian Revolving Loan Fund to promote economic development for Native Hawaiians.

DATE: The closing date for receipt of applications is August 23, 1988.

FOR FURTHER INFORMATION CONTACT: Darryl Summers (202) 245–7730 or Jan Phalen (202) 245–7714, Administration for Native Americans, 330 Independence Avenue, SW., Washington, DC 20201–0001.

SUPPLEMENTARY INFORMATION:

A. Introduction and Program Purpose

The purpose of this program announcement is to announce the availability of financial assistance for the establishment and management of a Native Hawaiian Revolving Loan Fund Demonstration Project. Funds will be awarded under section 803A of the Native American Programs Act of 1974, as amended Pub. L. 93–644, 88 Stat 2324, U.S.C. 2991b.

Proposed projects will be reviewed on a competitive basis against the evaluation criteria in this announcement.

The purpose of the financial assistance provided by the Administration for Native Americans (ANA) under the Native American Programs Act (the Act) is to promote social and economic self-sufficiency for American Indians, Alaskan Natives, Native Hawaiians and Native American Pacific Islanders.

ANA bases its program and policy initiatives on three program goals: governance, economic development and social development. To accomplish these goals, ANA supports tribal governments and other Native American organizations in the development and implementation of community-based, long-term governance and social and economic development strategies (SEDS) aimed at promoting the self-sufficiency of their own communities.

B. Proposed Project To Be Funded

The Native Hawaiian Revolving Loan Fund Demonstration Project is authorized by recent amendments to the Act as a 5-year demonstration project to promote economic development for Native Hawaiians and financed through appropriations contained in the Fiscal Year 1988 Continuing Resolution. Under these provisions, either an agency of the State of Hawaii or a community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians will be awarded one grant to establish and administer a revolving loan fund for Native Hawaiian organizations, businesses, and individual Native Hawaiians.

ANA's financial assistance for Native Hawaiians to date has been in the form of grants to a broad range of Native Hawaiian groups. The purpose of this demonstration project is to determine whether Native Hawaiians can benefit from additional community-based assistance for business development in the form of a revolving loan fund.

Applicants are encouraged to read carefully the regulations at 45 CFR Part 1336, Subpart F, which define the Department's requirements for the development and management of the Revolving Loan Fund. A grant application must reflect the loan fund requirements as specified in the regulations.

As stated in section 803A, the five-year demonstration project period will run from November 29, 1987 (the date of enactment of the legislation) to November 29, 1992. ANA expects the grant to be awarded to administer the Revolving Loan Fund project by September 30, 1988. Therefore, the prospective grantee must be prepared to use the amount of the Fiscal Year 1988 appropriation to operate a Revolving Loan Fund from October 1, 1988 to November 29, 1992. From that point in time, the Loan Administrator will assume responsibility for the collection of any loans outstanding up to an additional five years until September 30, 1997 or until all outstanding loans are settled. The fiscal requirements of the Revolving Loan Fund are addressed in § 1336.72 of the regulations.

Of key importance is the requirement that the Loan Administrator assume responsibility for the collection of loans outstanding after the end of the 5-year demonstration project without additional financial assistance from ANA. The costs for managing the collection process after the 5-year period will be determined by the Commissioner of ANA based on audits and financial reports and will be paid from interest and loan charges collected by the fund and that are in the fund as of November 29, 1992. Therefore, the grant application must address the management of the fund beyond the 5-year period of the demonstration project.

An applicant for this grant must submit an application for a fifty-month project period. There will be three budget periods of 12 months each and a fourth budget period of 14 months. The application must fully describe project objectives and activities for each budget period. Separate Objective Work Plans must be presented for each of the budget periods which must include a separate itemized budget of the Federal and non-Federal costs of the project.

ANA estimates that the first six months of the grant period will be devoted to the development of the goals, strategies, procedures and criteria outlined in §§ 1336.63–1336.72 of the regulations. Before any direct loan may be made by the Loan Administrator, ANA must approve the operating plan for the Revolving Loan Fund.

ANA is looking for a State agency or an organization already established in the Native Hawaiian community to administer the RLF. It is important that the Loan Administrator have contacts in the community with other financial institutions as well as with local Native Hawaiian businesses.

ANA is seeking to fund a Loan Administrator which can provide a match of cash or in-kind contributions. While the statute provides that administrative costs may be paid from the Revolving Loan Fund, the maximum match of a non-Federal share will increase the amount of loan monies available for the business community and will be taken into consideration by the Commissioner in making his final funding decision.

This Program Announcement solicits applications under the interim final regulations. If, as a result of public comments on the regulations, the Department makes changes in the requirements for the Loan Administrator, each applicant will be

offered an opportunity to amend its application.

C. Eligible Applicants

Agencies of the State of Hawaii or community-based Native Hawaiian organizations whose purpose is the economic and social self-sufficiency of Native Hawaiians are eligible to apply for a grant award under this announcement.

D. Available Funds

In Fiscal Year 1988 $957,000 is available for one grant under this announcement.

E. Grantee Share of Project

The authorizing statute (Section 803(b)) requires that the grantee match 20% of the total approved project. An itemized budget detailing the applicant's non-Federal share and its source must be included in the application. A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

F. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372.

G. The Application Process

Availability of Application Forms

In order to be considered for the grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application requirements are approved under OMB Control No. 0980–0016. The application kits containing the necessary forms may be obtained from:

Darryl Summers (202) 245–7730 or Jan Phalen (202) 245–7714, Administration for Native Americans, Office of Human Development Services, DHHS, Room 5300 Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201–0001, Attention: No. 13612–883.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be hand delivered or mailed to:

Department of Health and Human Services, Office of Human Development Services, Discretionary Grants Management Branch, Hubert H. Humphrey Building, Room 345F, 200 Independence Avenue, SW., Washington, DC 20201–0001, Attention: ANA 13612–883.

The application shall be signed by an individual authorized to act for the applicant and to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

Application Consideration

The Commissioner of the Administration for Native Americans determines the final action to be taken with respect to each grant application received under this announcement.

The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. An independent review panel evaluates each application against the published criteria. The results of this review assist the Commissioner in making final funding decisions.
- The Commissioner's decision also takes into account the comments of the ANA staff, State and Federal agencies having performance related information, and other interested parties.
- The Commissioner will make one grant award consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this Program Announcement, and the availability of funds.
- After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within approximately 120 days of the closing date. The successful applicant is notified through an official Financial Assistance Award (FAA). The award will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of any non-Federal natching share.

H. Review Process and Criteria

Applications submitted in a timely manner under this program announcement will undergo a pre-review to determine:

- That the applicant is eligible in accordance with the Eligible Applicant Section of this announcement;
- That the application proposes project objectives which are responsive to the Program Announcement; and
- That the application materials submitted are sufficient to allow the panel to undertake an in-depth evaluation. All required materials and forms are listed in the Grant Application Checklist in the Application Kit.

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the following criteria:

(1) *Goals of the Revolving Loan Fund Demonstration Project* (5 points)

The application presents the goals of the Revolving Loan Fund in accordance with Subpart F of the ANA regulations.

(2) *Resources Available to the Revolving Loan Fund Demonstration Project* (20 points)

Other resources which will assist or be coordinated with the Revolving Loan Fund are described indicating that the applicant has sufficient support to administer the Revolving Loan Fund. Resources include Federal resources and any non-Federal match.

(3) *Capabilities and Qualifications* (30 points)

The resumes or position descriptions of key personnel of the Board, Loan Review Committee and staff (Section 1336.65 of the Interim Final Rule) indicate that the personnel are qualified to administer a Revolving Loan Fund. Personnel qualifications include expertise in all aspects necessary to a financial lending institution, including business development, business technical assistance, financing experience, appropriate legal experience, investment expertise, etc.

(4) *Project Objectives and Activities of the Demonstration Project* (30 points)

The applicant proposes objectives and activities which:

- Are in response to the regulations of the Revolving Loan Fund;
- Specify how the Loan Administrator will develop and obtain ANA approval for the operating procedures of the Revolving Loan Fund;
- Are realistic and measurable; and
- Indicate which staff person will have responsibility for each activity and objective.

(5) *Results or Benefits Expected* (5 points)

The proposed objectives will result in specific outcomes which in total will result in a successful Revolving Loan Fund.

(6) *Budget* (10 points)

The budget fully explains and justifies the line items in the budget categories in Part III, Section B of the Budget Information of the Application. Sufficient detail is included to facilitate determination of allowability, relevance to the project, and cost benefits. The administrative costs which are to be paid from the Revolving Loan Fund are the minimum necessary to assure program operations.

I. Technical Guidance

- The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.
- ANA suggests that the pages of the application be numbered sequentially from the first page. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also helpful to the reviewers.
- Two copies of the application plus the original are required.
- ANA will accept only one application from any one applicant. If an eligible applicant sends in two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.
- The Cover Page (included in the Kit) should be the first page of an application.
- The Approach Page (Section B, Part IV) for each objective proposed should be of sufficient detail to become a daily or weekly staff guide of responsibilities should the applicant be funded.
- The applicant should specify the entire project period length on the cover page of the Form 424, Block 16, not the length of the first budget period.

J. Due Date For Receipt of Applications

The closing date for applications submitted in response to this program announcement is August 23, 1988.

K. Receipt of Applications

Applications must either be hand delivered or mailed.

Applications mailed through the U.S. Postal Service or a commercial delivery service shall be considered as meeting the deadline if they are:

(1) Received on or before the deadline date at the address specified in the Application Submission Section; or

(2) Sent on or before the deadline date and received by the granting agency in time for the independent review. (Applicants must be cautioned to request a legibly dated receipt from a commercial carrier or U.S. Postal Service or a legible postmark date from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications

Applications which do not meet the criteria in the above paragraph of this section are considered late applications. ANA shall notify each late applicant that its application will not be considered in the competition.

Extension of Deadlines

ANA may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if ANA does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Date: May 18, 1988.

William Lynn Engles,

Commissioner, Administration for Native Americans.

Approved: May 25, 1988.

Sydney Olson,

Assistant Secretary for Human Development Services.

[FR Doc. 88-14297 Filed 6-23-88; 8:45 am]

BILLING CODE 4130-01-M

Federal Register

Friday
June 24, 1988

Part VII

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Hazardous Waste Sites; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3404-1]

National Priorities List for Uncontrolled Hazardous Waste Sites, Sites Subject to the Subtitle C Corrective Action Authorities of the Resource Conservation and Recovery Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is reproposing 13 sites that were previously proposed for the National Priorities List ("NPL") and proposing to drop 30 sites from the proposed NPL. The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), and Executive Order 12580.

These actions are being proposed for these sites in accordance with the NPL policy concerning sites subject to the Subtitle C corrective action authorities of the Resource Conservation and Recovery Act ("RCRA"), set out at 51 FR 21057 (June 10, 1986), and in the preamble to this proposed rule. This notice solicits comments on the Agency's decisions to either promulgate, or drop from the proposed NPL, certain sites based upon their RCRA status.

DATE: Comments may be submitted on or before August 23, 1988.

ADDRESSES: Comments may be mailed to Stephen A. Lingle, Director, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Addresses for the Headquarters and Regional dockets are provided below. For further details on what these dockets contain, see Section III of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

Tina Maragousis, Headquarters, U.S. EPA CERCLA Docket Office, Waterside Mall Subbasement, 401 M Street SW., Washington, DC 20460, 202/382-3046

Evo Cunha, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, 90 Canal Street, Boston, MA 02203, 617/573-5729

U.S. EPA Region 2, Document Control Center, Superfund Docket, 26 Federal Plaza, 7th Floor, Room 740, New York, NY 10278, Latchmin Serrano, 212/264-5540, Ophelia Brown, 212/264-1154

Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-0580

Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347-4216

Cathy K. Freeman, Region 5, U.S. EPA, 5HR-11, 230 South Dearborn Street, Chicago, IL 60604, 312/886-6214

Deborah Vaughn-Wright, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H-ES, Dallas, TX 75202-2733, 214/655-6740

Connie McKenzie, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/236-2828

Delores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 500, Denver, CO 80202-2405, 303/293-1444

Linda Sunnen, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8082

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop 525, Seattle, WA 98101, 206/442-2103.

FOR FURTHER INFORMATION CONTACT: Suzanne Wells, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone (800) 424-9346 or 382-3000 in the Washington, DC metropolitan area.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, *et seq.* ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites; CERCLA was amended in 1986 by the Superfund Amendments and Reauthorization Act ("SARA"). To implement CERCLA, the U.S. Environmental Protection Agency ("EPA") promulgated the revised National Oil and Hazardous Substances Contingency Plan, 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to section 105 of CERCLA and Executive Order 12316 (46 FR 42237, August 20, 1981). The National Contingency Plan ("NCP"), further revised by EPA on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912), sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants.

Section 105(a)(8)(A) of CERCLA (as amended) requires that the NCP include criteria for determining priorities among releases or threatened releases for the purpose of taking remedial or removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial actions tend to be long-term in nature and involve response actions that are consistent with a permanent remedy (CERCLA section 101(24)).

Section 105(a)(8)(B) of CERCLA (as amended) requires that these criteria be used to prepare a list of national priorities among the known releases throughout the United States. These criteria are included in Appendix A of the NCP, *Uncontrolled Hazardous Waste Site Ranking System: A User's Manual* (the "Hazard Ranking System" or "HRS" (47 FR 31219, July 16, 1982)). The list, which is Appendix B of the NCP, is the National Priorities List ("NPL"). Section 105(a)(8)(B) also requires that the NPL be revised at least annually. EPA proposes to include on the NPL sites at which there have been releases or threatened releases of hazardous substances, or of "pollutants or contaminants." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

Under § 300.68(a) of the NCP, a site must be on the NPL if a remedial action is to be financed by the Hazardous Substances Superfund established under SARA. Federal facility sites are eligible for the NPL pursuant to § 300.66(e)(2) of the NCP (50 FR 47931, November 20, 1985). However, CERCLA section 111(e), as amended by SARA, limits the expenditure of Fund monies at Federally-owned facilities. Federal facility sites are subject to the requirements of section 120 of CERCLA, as amended by SARA.

In this notice, EPA is reproposing 13 sites to the NPL, and proposing to drop 30 sites from the proposed NPL. These sites were proposed in either Update #1

(48 FR 40674, September 8, 1983), Update #2 (49 FR 40320, October 15, 1984), Update #3 (50 FR 14115, April 10, 1985), or Update #4 (50 FR 37950, September 18, 1985). These sites were all proposed prior to publication of the policy for listing certain categories of RCRA sites on the NPL (announced on June 10, 1986 (50 FR 21054) and amended in the preamble to this proposed rule), and have since been identified as sites which may be regulated according to the Subtitle C corrective action authorities of RCRA. Therefore, no opportunity has been provided for notice and comment on the application of the final RCRA listing criteria to these sites. In addition, one site, the J. H. Baxter Co. site in Weed, California, is being reproposed because of its RCRA status and because the HRS score for the site has been revised. In addition, minor modifications have been made to the HRS documents for the sites listed below:

Lorentz Barrel & Drum—San Jose, California
Prestolite Battery Division—Vincennes, Indiana
Union Chemical Co.—South Hope, Maine
Kysor Industrial Corp.—Cadillac, Michigan
Conservation Chemical Co.—Kansas City, Missouri
National Starch and Chemical Corp.—Salisbury, North Carolina
Culpeper Wood Preservers—Culpeper, Virginia

The purpose of this **Federal Register** notice is to provide information and solicit comments on EPA's proposed actions for these sites, and to set out amendments to the June 10, 1986 listing policy.

Currently, 378 sites are proposed for the NPL and 799 sites are on the final NPL for a total of 1177 sites. However, the number may change in the future as a result of final actions resulting from this proposed rule.

II. NPL Udpate Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or evironmental damage. The HRS takes into account "pathways" to human or environmental exposure in terms of numerical scores. Those sites that score 28.50 or greater on the HRS, and which are otherwise eligible, may be proposed for listing. The sites discussed in today's rule were proposed based on HRS scores greater than 28.50.

SARA, enacted on October 17, 1986, directs EPA to revise the HRS. The Agency will continue to use the existing HRS until the revised HRS becomes effective. Sites placed on the final NPL prior to the effective date of the revised HRS will not be re-evaluated under the revised system, consistent with section 105(c)(3) of CERCLA (as amended).

The second mechanism for placing sites on the NPL allows States to designate a single site, regardless of its score, as the State's top priority. A State top priority site will be listed on the NPL even if it does not qualify due to its score.

In rare instances, EPA may utilize § 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985), which allows certain sites with HRS scores below 28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

—The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.
—EPA determines that the release poses a significant threat to public health.
—EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

States have the primary responsibility for identifying sites, computing HRS scores, and submitting candidate sites to the EPA Regional offices. EPA Regional offices conduct a quality control review of the States' candidate sites, and may assist in investigating, monitoring, and scoring sites. Regional offices may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the new sites that meet the listing requirements and solicits public comments on the proposal. Based on these comments and further EPA review, the Agency determines final scores and promulgates those sites that still meet the listing requirements.

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has since been expanded (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; 50 FR 37630, September 16, 1985; 51 FR 21054, June 10, 1986; and 52 FR 27620, July 22, 1987). To date, EPA has deleted 11 sites from the NPL (51 FR 7935, March 7, 1986; 53 FR 12680, April 18, 1988). As of today, the number of final NPL sites is 799. Another 378 sites from seven updates remain proposed for the NPL (see 48 FR 40674, September 8, 1983; 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; 50 FR 37950, September 18, 1985; 51 FR 21099, June 10, 1986; 52 FR 2492, January 22, 1987; and a notice published elsewhere in today's **Federal Register**).

III. Public Comment Period, Available Information

This **Federal Register** notice, which reproposes 13 sites to the NPL and proposes to drop 30 sites from the proposed NPL, opens the formal 60-day comment period. These sites were all proposed in one of the first four updates to the NPL (Update #1, 48 FR 40674, September 8, 1983; Update #2, 49 FR 40320, October 15, 1984; Update #3, 50 FR 14115, April 10, 1985; or Update #4, 50 FR 37950, September 18, 1985). The Agency is soliciting comment on the application of the policy for listing certain categories of RCRA sites on the NPL, discussed on June 10, 1986 (51 FR 21099), and later in this rule, to these proposed NPL sites. Comment is also being solicited on the revision of the HRS score for the J.H. Baxter site. In addition, as previously mentioned, minor modifications have been made to the HRS documents for several other sites. Comments may be mailed to Stephen A. Lingle, Director, Hazardous Site Evaluation Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Documents providing EPA's justification for today's proposed actions are available to the public in both the Headquarters and appropriate Regional public dockets. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any of these documents. The Headquarters public docket is located in EPA Headquarters, Waterside Mall Subbasement, 401 M Street SW., Washington, DC 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. The Regional public dockets are identified in the Address portion of this notice.

Comments are placed in the Headquarters docket and, during the comment period, are available to the public only in the Headquarters docket. A complete set of comments pertaining to sites in a particular EPA Region will be available for viewing in the Regional office docket approximately one week after the close of the comment period. Comments received after the close of the comment period will be available in the Headquarters docket and in the appropriate Regional office docket on an "as received" basis.

EPA considers all comments received during the formal comment period. In past NPL rulemakings, EPA has considered comments received after the close of the comment period. EPA will attempt to continue that practice to the extent that is practicable. The Agency is currently working to revise the HRS pursuant to requirements in SARA. EPA anticipates making final decisions on the 43 sites in this rule prior to the effective date of the revised HRS. Because of this time constraint, EPA may not have the opportunity to consider late comments as in the past. Any sites still proposed as of the effective date of the HRS will have to be re-evaluated using the revised HRS.

A statement of EPA's information release policy, describing what information the Agency discloses in response to Freedom of Information Act requests from the public, was published on February 25, 1987 (52 FR 5578).

IV. Eligibility and Listing Policies

CERCLA restricts EPA's authority to respond to certain categories of releases of hazardous substances, pollutants, or contaminants and expressly excludes some substances, such as petroleum, from its response authority. In addition, as a matter of policy, EPA may choose not to respond to certain types of releases because other authorities can be used to achieve cleanup. Where such other authorities exist and the Federal government can undertake or enforce cleanup pursuant to a particular established program, using the NPL to determine the priority or need for review under CERCLA may not be appropriate. If, however, the Agency later determines that sites not listed as a matter of policy are not being or cannot be addressed in an adequate or timely manner, the Agency may consider placing them on the NPL.

The listing policy of relevance to this proposed rule pertains to sites which may be subject to the corrective action authorities of Subtitle C of the Resource Conservation and Recovery Act (RCRA).

NPL Listing/Deferral of RCRA Sites

Background

Since the first NPL final rule (48 FR 40658, September 8, 1983), the Agency's policy has been to defer placing sites on the NPL that could be addressed by the RCRA Subtitle C corrective action authorities. Until 1984, those authorities were limited to facilitates with releases to ground water from surface impoundments, waste piles, land treatment areas, and landfills that received RCRA hazardous waste after July 26, 1982, and did not certify closure prior to January 26, 1983 (i.e., land disposal facilities addressable by an operating or post-closure permit). Sites which met these criteria were placed on the NPL only if they were abandoned, lacked sufficient resources, Subtitle C corrective action authorities could not be enforced, or a significant portion of the release came from non-regulated units.

On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 (HWSA) were enacted. HWSA greatly expanded RCRA Subtitle C corrective action authorities as follows:

—Section 3004(u) requires permits issued after the enactment of HSWA to include corrective action for all releases of hazardous waste or constituents from solid waste management units at a treatment, storage, or disposal facility seeking a permit.

—Section 3004(v) requires corrective action to be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner/operator of the facility demonstrates that despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action.

—Section 3008(h) authorizes the Administrator of EPA to issue an order requiring corrective action or such other response measures as deemed necessary to protect human health or the environment whenever it is determined that there is or has been a release of hazardous waste into the environment from a facility with interim status.

As a result of the broadened Subtitle C corrective action authorities of HWSA, the Agency announced a policy for deferring the listing of non-Federal sites subject to the Subtitle C corrective action authorities (50 FR 14117, April 10, 1985). The policy proposed to defer listing of such sites unless and until the Agency determined that RCRA corrective action was not likely to succeed or occur promptly due to factors such as:

(1) The inability or unwillingness of the owner-operator to pay for addressing the contamination at the site;

(2) Inadequate financial responsibility guarantees to pay for such costs; and

(3) EPA or State priorities for addressing RCRA sites.

The intent of the policy was to maximize the number of site responses achieved through the RCRA corrective action authorities, thus preserving the CERCLA Fund for sites for which no other authority is available. Federal facility sites were not considered in the development of the policy at that time because the NCP prohibited placing Federal facility sites on the NPL.

On June 10, 1986 (51 FR 21057), the Agency added to the NPL a number of sites regulated under RCRA, but not subject to the Subtitle C corrective action authorities. Examples included:

—Facilities that ceases treating, storing, or disposing hazardous waste prior to November 19, 1980 (the effective date of Phase I of the RCRA regulations), and to which the RCRA corrective action or other authorities of Subtitle C cannot be applied.

—Sites at which only materials exempted from the statutory or regulatory definition of solid or hazardous waste were managed.

—RCRA hazardous waste handlers to which RCRA Subtitle C corrective action authorities do not apply, such as hazardous waste generators or tansporters not required to have interim status or a final RCRA permit.

In the June 10, 1986 notice, the Agency also added to the NPL a number of sites which *were* subject to Subtitle C corrective action authorities. After having reviewed public comments received on the April 10, 1985 policy, the Agency determined that sites which are subject to Subtitle C corrective action authorities should be on the NPL if they are eligible (e.g., HRS scores greater than or equal to 28.50) *and* if the owner/operators are either unable or unwilling to pay for corrective action at the sites. The Agency recognized that in such a situation it may be appropriate to place the sites on the NPL to make CERCLA funds available for the site, if needed.

Specifically, the Agency identified three categories of sites subject to Subtitle C corrective action authorities which could be placed on the NPL. These categories were consistent with the first two factors announced in the April 10, 1985 policy. The three categories are as follows:

(1) Facilities owned by persons who have demonstrated an inability to finance a cleanup as evidenced by their invocation of the bankruptcy laws.

(2) Facilities that have lost authorization to operate and for which there are indications that the owner/operator has been unwilling to undertake corrective action. Authorization to operate may be lost when issuance of a corrective action order under RCRA section 3008(h) terminates the interim status of a facility or when the interim status of the facility is terminated as a result of a permit denial under RCRA section 3005(c). Also, authorization to operate is lost through operation of section 3005(e)(2) (when an owner/operator of a land disposal facility did not certify compliance with applicable ground water monitoring and financial responsibility requirements and submit

a Part B permit application by November 8, 1985—also known in HSWA as the Loss of Interm Status Provision (LOIS)).

(3) Facilities that have not lost authorization to operate, but which have a clear history of unwillingness. These situations are determined on a case-by-case basis.

Also, on June 10, 1986 (51 FR 21059), the Agency discussed additional components of the RCRA policy to add specificity to the determination of unwillingness. The Agency's decision on these additional components will be discussed in a upcoming **Federal Register** notice.

Additional Clarification of the NPL/RCRA Policy

Currently, the Agency will place sites subject to RCRA Subtitle C corrective action on the NPL only if they satisfy one of the three criteria discussed previously in this rule (i.e., bankruptcy, LOIS/unwillingness, case-by-case unwillingness). In addition, today's notice amends the RCRA policy by adding four new categories of RCRA sites as appropriate for the NPL. EPA has decided that sites in the following category are appropriate for the NPL.

(1) Facilities that were treating, storing or disposing of Subtitle C hazardous waste after November 19, 1980, and did not file a Part A permit application by that date and have little or no history of compliance with RCRA. These are referred to as *non- or late filers.*

The Agency has decided to place on the NPL "non- or late filers," facilities that were treating, storing, or disposing of hazardous waste after November 19, 1980, but did not file a Part A permit application by that date and have little or no history of compliance with RCRA. EPA has found that TSDFs that fail to file Part A of the RCRA permit application generally remain outside the range of cognizance of authorities responsible for compliance with RCRA, and generally are without the institutional mechanisms such as ground water monitoring programs, necessary to assure prompt compliance with the standards and goals of the RCRA program; therefore, EPA believes that it is not appropriate to defer to RCRA for action at these sites, even though RCRA technically may apply. However, in cases where non- or late filer facilities have in fact come within the RCRA system and demonstrated a history of compliance with RCRA regulations (as may often be the case with late filers), the Agency may decide to defer listing and allow RCRA to continue to address problems at the site.

Two other categories of RCRA sites are appropriate for the NPL:

(2) Facilities with permits for the treatment, storage, or disposal of Subtitle C hazardous waste which were issued prior to the enactment of HSWA, and whose owner/operator will not voluntarily modify the permit to incorporate corrective action requirements. These are referred to as *pre-HSWA permittees.*

(3) Facilities that have filed Part A permit applications for treatment, storage, or disposal of Subtitle C hazardous wastes as a precautionary measure only. These facilities may be generators, transporters, or recyclers of hazardous wastes, and are not subject to Subtitle C corrective action authorities. These are referred to as *protective filers.*

For facilities with permits that pre-date HSWA, the owner/operators are not required through the permit to perform corrective action for releases from solid waste management units, and the Agency does not have the authority to modify such pre-HSWA permits to include RCRA corrective action under RCRA section 3004(u) until the permit is renewed. Because many pre-HSWA permits are for 10 years, with the last pre-HSWA permit having been issued prior to November 8, 1984, it could be 1994 before the Agency could modify some permits to include corrective action authority. Therefore, the Agency will propose for listing, facilities with pre-HSWA permits (that have HRS scores greater than or equal to 28.50, or are otherwise eligible for listing), so that CERCLA authorities will be available to more expeditiously address any releases at such sites. However, if the permitted facility consents to the modification of its pre-HSWA permit to include corrective action requirements, the Agency will consider not adding the facility to the NPL.

The Agency does not have the authority to compel Subtitle C corrective action at facilities classified as protective filers. These facilities filed Part A permit applications as treatment, storage or disposal facilities (TSDFs) as a precautionary measure only, and are generators, transporters, or recyclers of hazardous waste, or in some cases, handlers of non-hazardous wastes. Protective filers are not subject to Subtitle C corrective action authorities, and thus, EPA will propose them for the NPL.

The Agency is also announcing a policy for a fourth category of RCRA sites that may be appropriate for listing on the NPL. This policy will apply to sites re-proposed for listing in today's **Federal Register**, and to sites newly proposed for listing on NPL Update #7, published elsewhere in today's **Federal Register**. This category of sites includes:

(4) Facilities that at one time were treating or storing RCRA Subtitle C hazardous waste but have since converted to generator-only status (i.e., facilities that now store hazardous waste for 90 days or less), or any other hazardous waste activity for which interim status is not required. These facilities, the withdrawal of whose Part A application has been acknowledged by EPA or the State, are referred to as *converters.*

Converters at one time treated or stored Subtitle C hazardous waste and were required to obtain interim status. EPA believes that it has the authority under RCRA section 3008(h) to compel corrective action at such sites. However, RCRA's corrective action program currently focuses primarily on treatment, storage, and disposal facilities (due to statutory permitting deadlines in RCRA), and thus EPA has not routinely reviewed converters under RCRA Subtitle C. The Agency has decided at this time to propose that four sites previously proposed for the NPL be placed on the final NPL on the basis of their converter status, and, in a separate section of today's **Federal Register**, to propose an additional eight converters for listing on the NPL, in order to ensure that these sites are expeditiously addressed.

This is consistent with EPA's approach of listing those RCRA facilities where corrective action is not likely to be expeditiously performed (*see* 51 FR 21054, June 10, 1986). Although EPA has the authority to list any site not statutorily excluded that meets the HRS scoring criterion, the Agency has, as a matter of policy, decided to defer the listing of most facilities where RCRA corrective action authorities are available. However, the Agency believes that deferral may not be appropriate for facilities like converters where prompt corrective action is unlikely under RCRA; instead, the Agency is proposing to list such sites so that cleanup action may be taken in an expeditious manner under CERCLA, if necessary.

EPA is currently engaged in an initiative to identify and prioritize RCRA facilities that are not being promptly addressed. If the Agency determines in the future that as a result of this initiative, converter sites will be addressed in an expeditious manner by RCRA authorities, then it will reconsider today's policy and may defer to RCRA for corrective action at converter sites.

The Agency seeks comment on the application of this policy to the sites being proposed and reproposed in today's **Federal Register**. In the future, there may be other situations, on a case-by-case basis, where the Agency may

elect to use CERCLA authorities rather than its RCRA authorities. In those situations, the Agency will provide its rationale for pursuing CERCLA authorities in a **Federal Register** notice.

V. Contents of This Proposed Rule

This rule reproposes 13 sites to the NPL (Table 1), and proposes to drop 30 sites (Table 2) from the proposed NPL. These proposed actions are based on the application of the components of the NPL/RCRA policy announced on June 10, 1986 (51 FR 21057), and on those discussed in this notice.

All these sites were proposed to the NPL prior to the announcement of the NPL/RCRA policy and its amendments today. The Agency believes that it is appropriate to solicit comments on these proposed actions because the public was not previously afforded adequate notice and opportunity to comment on the application of the NPL/RCRA policy to these sites. Documentation supporting the Agency's proposed actions is available in the public docket.

Sites To Be Reproposed To The NPL

The 13 sites that the Agency is reproposing to the NPL fall into one of the following categories:

- —Sites which are not subject to the Subtitle C corrective action authorities of RCRA. For example:
  - —exempt by site-specific orders
  - —sites where wastes are no longer considered hazardous because of an amendment to the list of RCRA hazardous wastes
- —Sites subject to Subtitle C corrective action authorities of RCRA, but which satisfy one of the criteria of the June 10, 1986 NPL/RCRA policy (e.g., case-by-case unwillingness);
- —Sites which have converted from treatment and/or storage status to generator-only status;
- —Sites which failed to file a Part A permit application in a timely fashion; and
- —Sites where RCRA corrective action may not apply to all the contamination at the site.

Table 1 lists the 13 sites the Agency is reproposing to the NPL. A brief description of each follows Table 1, and a more detailed account is available in the docket.

TABLE 1.—SITES TO BE REPROPOSED TO THE NPL

State/Site name	Location	RCRA status	Date proposed
AZ: Motorola, Inc. (52nd Street Plant)	Phoenix	Converter	10/15/84
CA: Fairchild Semiconductor Corp. (formerly Fairchild Camera & Instrument Corp.) (South San Jose Plant).	South San Jose	Converter	10/15/84
CA: J.H. Baxter Co	Weed	Unwilling	10/15/84
CA: Lorentz Barrel & Drum Co	San Jose	Non-filer	10/15/84
FL: City Industries Inc	Orlando	LOIS/unwilling	10/15/84
IN: Prestolite Battery Division	Vincennes	RCRA corrective action may not apply to all contamination.	09/18/85
ME: Union Chemical Co. Inc	South Hope	LOIS/Unwilling	04/10/85
MI: Kysor Industrial Corp	Cadillac	Converter	09/18/85
MO: Conservation Chemical Co	Kansas City	Unwilling	04/10/85
NE: Lindsay Manufacturing Co	Lindsay	Amendment to waste listing	10/15/84
NC: National Starch & Chemical Corp	Salisbury	Converter	04/10/85
VA: Culpeper Wood Preservers, Inc	Culpeper	RCRA 3008(a) order	10/15/84
VA: Buckingham County Landfill (formerly Love's Container Service Landfill).	Buckingham	LOIS/unwilling	10/15/84

Motorola, Inc. (52nd Street Plant)—Phoenix, Arizona

This facility is a converter. It obtained interim status on November 19, 1980, when it submitted to EPA a Part A permit application for container and tank storage. On May 19, 1986, the facility requested conversion to generator status only. On July 29, 1986, EPA confirmed the facility was operating as a generator.

Fairchild Semiconductor Corp. (Formerly Fairchild Camera & Instrument Corp.) (South San Jose Plant), South San Jose, California

This facility is a converter. It obtained interim status on November 17, 1980, when it submitted to EPA a Part A permit application for container and tank storage units. On February 11, 1982, the California Department of Health Services completed a surveillance and compliance report indicating the facility should not be permitted as a treatment, storage, or disposal facility, and that the facility should be classified as a generator. On March 10, 1982, the facility requested to withdraw its permit application for hazardous waste treatment operations because the only type of treatment conducted at the facility was waste water neutralization, which is excluded from permit requirements. EPA granted the request for withdrawal of the permit application.

J.H. Baxter Co.—Weed, California

EPA is reproposing this site to the NPL based on criterion #3 of the NPL/RCRA policy and because the HRS score has been revised. Consequently, the Agency is soliciting comment on the revised score as well as application of the NPL/RCRA policy. The facility has not lost authorization to operate, but has a clear history of unwillingness.

Baxter obtained interim status on November 17, 1980, when it submitted to EPA a Part A permit application. Since 1983, it has consistently sought to withdraw that application, and has continued to dispute RCRA jurisdiction over its facility. On the basis of disputed RCRA jurisdiction, the comapany has been unwilling to deny with numerous State and EPA Regional demands for cleanup and/or closure under RCRA and other statutes. The company does not comply the presence of contamination of soil and ground water at the site; rather it disputes the applicability of RCRA to those problems.

Baxter has evidenced a clear unwillingness to submit in any way to RCRA authorities, and thus it appears unlikely that corrective action may be achieved under RCRA. Therefore, the site should be reproposed to the NPL so that the contamination may be addressed under CERCLA.

Lorentz Barrel & Drum Co.—San Jose, California

This facility is now considered a non-filer. On August 18, 1980, Lorentz, a reconditioner of steel drums, notified EPA that it was a generator and transporter of hazardous waste, as well as a treatment, storage, and disposal facility. On March 25, 1981, EPA deleted the facility as a treatment, storage and disposal facility based on the company's

representations that it had filed the TSDF notification as a precaution, believing that ambiguities in the hazardous waste regulations could lead to an interpretation that would include the reconditioning of steel drums.

In 1983, the State determined that the facility was in fact managing hazardous wastes without a permit; the facility has been shut down until compliance procedures are developed. The facility is now considered a non-filer.

City Industries, Inc.—Orlando, Florida

This site is being proposed for the NPL based on criterion #2 of the NPL/RCRA policy. Although this facility is subject to the Subtitle C corrective action authorities of RCRA, it has lost authorization to operate, and the owner/operator has been unwilling to address contamination at the site.

City Industries obtained interim status on November 19, 1980, when it submitted to EPA a Part A permit application for storage. On July 27, 1983, EPA terminated the facility's interim status for failure to submit an acceptable Part B permit application to EPA.

The owner/operator demonstrated an unwillingness to address contamination at the site by failure to submit an acceptable Part B permit application to EPA, failure to comply with Federal and State administrative orders, abandonment of the site, and statements that he was financially unable to address the contamination at the site.

Prestolite Battery Division—Vincennes, Indiana

Prestolite Battery Division received interim status on November 11, 1980, when it submitted to EPA a Part A permit application for container, tank and surface impoundment storage. Much of the contamination at the site is a result of atmospheric deposition of lead from the facility's faulty air pollution control equipment. EPA is proposing to add this site to the NPL because at this time an issue remains as to whether RCRA Subtitle C corrective action authorities apply to all of the contamination associated with the site.

Union Chemical Co., Inc.—South Hope, Maine

This site is being reproposed for the NPL based on criterion #2 of the NPL/RCRA policy. Although this facility is subject to the Subtitle C corrective action authorities of RCRA, it has lost authorization to operate, and the owner/operator has been unwilling to address contamination at the site.

On July 31, 1980, Union Chemical submitted a preliminary notification of hazardous waste activity to EPA, identifying itself as a generator of RCRA hazardous waste and as a treatment and storage facility. Union Chemical obtained interim status on November 15, 1980, when it submitted a Part A permit application to EPA. The facility's interim status was terminated on June 27, 1984, when the State of Maine found that the facility had failed to comply with a May 7, 1984, consent decree it had entered into with the State. The consent decree required the reduction in the number of drums on site and financial assurances for site closure.

The owner/operator demonstrated unwillingness to address contamination at the site by failure to submit an acceptable Part B permit application, failure to comply with Federal and State administrative orders, and statements that he was financially unable to address contamination at the site.

Kysor Industrial Corp.—Cadillac, Michigan

This facility is a converter. It submitted a notification of hazardous waste activity on August 18, 1980, and obtained interim status on November 19, 1980, when it submitted to EPA a Part A permit application for container storage. On April 24, 1984, the facility submitted a closure plan, certification of closure, and request for conversion to generator status. On July 20, 1984, EPA approved Kysor's closure plan and acknowledged the facility's small quantity generator status.

Conservation Chemical Co. (CCC)—Kansas City, Missouri

EPA is reproposing this site for the NPL based upon criterion #3 of the NPL/RCRA policy. The facility has not lost authorization to operate, but has a clear history of unwillingess.

The record of compliance at the CCC site demonstrates the unwillingness of the owner/operator to submit an adequate part B permit application or closure plan; to comply with Federal and State Administrative orders; and to take cleanup action in response to a court finding of a "imminent and substantial" hazard at the site.

A consent decree signed by the generator defendants and the site owner/operator has recently been approved by a U.S. district court. However, the decree merely requires the site owner/operator to pay certain monies for past EPA response costs, grant site access, and otherwise cooperate in the cleanup efforts to be performed by others at the site. CCC did *not* commit to do any portion of the site remedy.

Lindsay Manufacturing Co.—Lindsay, Nebraska

This facility is no longer subject to RCRA Subtitle C corrective action authorities. It obtained interim status on November 17, 1980, when it submitted a Part A permit application to EPA for disposal surface impoundment units. On May 28, 1986, (51 FR 19320), EPA published an amendment to the listing for spent pickle liquor from steel finishing operations (EPA Hazardous Waste No. K062). This rulemaking confirmed that the waste generated by Lindsay Manufacturing would be considered hazardous only if it exhibited one or more of the hazardous waste characteristics. The waste did not display corrosivity characteristics; the Lindsay manufacturing unit was therefore not subject to RCRA, and not subject to RCRA Subtitle C corrective action authorities.

National Starch & Chemical Corp.—Salisbury, North Carolina

This facility is a converter. National Starch and Chemical Corp. submitted a Notification of Hazardous Waste Activity on September 24, 1980, indicating that the facility was a treatment, storage, or disposal facility as well as a generator. On October 17, 1980, the facility filed a Part A permit application for treating and storing of hazardous waste. On May 20, 1982, National Starch asked to withdraw its Part A application. On June 17, 1982, the facility was deleted as a storage facility and converted to generator only status. On July 19, 1983, EPA deleted the facility as a generator; it now has non-handler status. In 1983, National Starch merged with the adjacent Proctor Chemical facility under the National Starch & Chemical Corp. name and identification number. Proctor submitted a Notification of Hazardous Waste Activity and on August 18, 1980, submitted to EPA a Part A permit application for treatment and storage units. On June 23, 1983, EPA deleted the facility as a storer and on November 14, 1983, it was deleted as a treater, leaving the site with generator status.

Culpeper Wood Preservers, Inc.—Culpeper, Virginia

On September 10, 1981, EPA and the facility entered into a consent order and consent agreement pursuant to RCRA section 3008(a) which stated that upon satisfactory completion of a facility upgrading program, the facility would not be required to have a RCRA permit. The facility satisfied the requirements of the agreement, and thus has not been required to obtain a permit or interim

status under RCRA Subtitle C. As a result, EPA is proposing to list this facility for attention under CERCLA rather than RCRA. However, if the facility agrees to address the contamination at the site according to the Subtitle C corrective action authorities of RCRA, the Agency would consider removing the facility from consideration for the NPL.

Buckingham County Landfill (Formerly Love's Container Service Landfill)—Buckingham, Virginia

This site is being reproposed for the NPL based on criterion #2 of the NPL/RCRA policy. Although this facility is subject to the Subtitle C corrective action authorities of RCRA, it has lost authorization to operate, and the owner/operator has been unwilling to address all of the contamination at the site.

On January 8, 1981, the Love's Container Service Landfill obtained interim status for the disposal of type DOO1 wastes (ignitable waste) pursuant to RCRA Section 3005. Records indicate that the landfill continued to accept waste until February 1982.

In April 1982, Buckingham County purchased the site and the hazardous waste disposal permit from the site owner, Mr. Love. The landfill was never operate by the county.

In February 1985, the landfill was closed as a solid waste disposal facility by the county. The closure was consistent with State regulations, but was inconsistent with RCRA Subtitle C requirements.

On November 8, 1985, the landfill lost its interim status under RCRA section 3005(e)(2) because the county had failed to submit a Part B permit application for post-closure monitoring, and did not certify compliance with applicable ground water monitoring and financial responsibility requirements.

In a letter to EPA, dated November 30, 1987, from the county, the county stated that it was unable and unwilling to address all of the contamination at the site.

Sites To Be Dropped From the NPL

The Agency is proposing to drop 30 sites (Table 2) from the proposed NPL because they are subject to the Subtitle C corrective action authorities of RCRA, and do not satisfy any of the criteria in the NPL/RCRA policy of June 10, 1986 (51 FR 21057) or those discussed in this notice. The Agency believes that the sites will be adequately addressed using the corrective action authorities of RCRA Subtitle C alone or in conjunction with other authorities (a more detailed description of each site is available in the public docket). The Agency will continue to examine these sites in the context of the NPL/RCRA policy and may, in the future, consider these sites for addition to the NPL, if necessary.

TABLE 2.—SITES PROPOSED TO BE DROPPED FROM THE NPL

State/Site name	Location	Date proposed
CA: Fairchild Semiconductor Corp. (formerly Fairchild Camera & Instrument Corp.) (Mountain View Plant)	Mountain View	10/15/84
CA: FMC Corp. (Fresno Plant)	Fresno	10/15/84
CA: Hewlett-Packard	Palo Alto	10/15/84
CA: IBM Corp. (San Jose Plant)	San Jose	10/15/84
CA: Marley Cooling Tower Co	Stockton	10/15/84
CA: Rhone-Poulenc, Inc./Zoecon Corp	East Palo Alto	10/15/84
CA: Signetics, Inc.	Sunnyvale	10/15/84
CA: Southern Pacific Transportation Co	Roseville	10/15/84
CA: Van Waters & Rogers Inc	San Jose	10/15/84
CO: Martin Marietta (Denver Aerospace)	Waterton	09/18/85
FL: Pratt & Whitney Aircraft/United Technologies Corp	West Palm Beach	09/18/85
GA: Olin Corp. (Areas 1, 2 & 4)	Augusta	09/08/83
IA: A.Y. McDonald Industries, Inc	Dubuque	09/18/85
IA: Chemplex Co	Clinton/Camanche	10/15/84
IA: Frit Industries (Humboldt Plant)	Humboldt	04/10/85
IA: John Deere (Dubuque Works)	Dubuque	09/18/85
IA: U.S. Nameplate Co	Mount Vernon	10/15/84
IL: Sheffield (U.S. Ecology, Inc.)	Sheffield	10/15/84
IN: Firestone Industrial Products Co	Noblesville	09/18/85
KS: National Industrial Environmental Services	Furley	10/15/84
MI: Hooker (Montague Plant)	Montague	09/18/85
MI: Lacks Industries, Inc	Grand Rapids	10/15/84
MO: Findett Corp	St. Charles	10/15/84
MT: Burlington Northern Railroad (Somers Tie-Treating Plant)	Somers	10/15/84
NE: Monroe Auto Equipment Co	Cozad	09/18/85
NJ: Matlack, Inc	Woolwich Township	09/18/85
OH: General Electric Co. (Coshocton Plant)	Coshocton	10/15/84
PA: Rohm & Haas Co. Landfill	Bristol Township	04/10/85
VA: IBM Corp. (Manassas Plant Spill)	Manassas	10/15/84
WV: Mobay Chemical Corp. (New Martinsville Plant)	New Martinsville	10/15/84

VI. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites. EPA believes that the kinds of economic effects associated with this revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when the amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes that the anticipated economic effects related to proposing the addition of these sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis. As required by Executive Order No. 12291, this rule was submitted to the Office of Management and Budget (OMB) for review.

Costs

EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. In addition, since these sites were previously proposed for the NPL, no additional costs are incurred in today's rulemaking.

The major events that generally follow the proposed listing of a site on the NPL are a search for responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS. It should be noted that a site must be on the final NPL in order for construction and operation and maintenance (O&M) to occur. O&M activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, design and construction, and O&M, or the costs may be shared by EPA and the States.

The State cost share for cleanup activities has been amended by section 104 of SARA. For privately-owned sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. At publicly-owned but not publicly-operated sites, however, the States cost share is at least 50% of all response costs. This includes the RI/FS, remedial design and construction, and O&M. For cleanup activities other than ground water or surface water, EPA will share, for up to 1 year, in the cost of that portion of O&M that is necessary to assure that a remedy is operational and functional. After that time, the State assumes full responsibility for O&M. SARA provides that EPA will share in the operational costs associated with ground water/surface water restoration for up to 10 years.

In previous NPL rulemakings, the Agency has provided estimates of the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average persite and total cost basis. At this time, however, there is insufficient information to determine what these costs will be as a result of the new requirements under SARA. As EPA gains more experience with the effects that SARA requirements will have on response costs, EPA will once again provide cost estimates.

Listing a hazardous waste site on the final NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the site voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of response costs, but the Agency considers: The volume and nature of the wastes at the site, the parties' ability to pay, and other factors when deciding whether and how to proceed against potentially responsible parties.

The economic effects of this proposed amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The benefits associated with today's proposed amendment to place 13 additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, this proposed expansion of the NPL could accelerate voluntary privately-financed cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

As a result of additional CERCLA remedies, there will be lower human exposure to contaminants, and higher quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at these particular sites.

Associated with the costs of remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly.

The benefit associated with today's proposed action to remove 30 sites from the proposed NPL is that CERCLA resources and monies available for cleanup of NPL sites will be preserved for sites for which there is no other authority to pursue site cleanup. The Agency believes that these sites can be addressed by the Subtitle C corrective action authorities of RCRA alone or in conjunction with other authorities, and therefore should not be on the NPL.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small governmental jurisdictions, and nonprofit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. Proposing sites for the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate the number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the proposed listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost-recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including the firm's contribution to the problem and the firm's abillty to pay. The impacts from cost recovery on small governments and nonprofit

organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Date: June 16, 1988.

Jack W. McGraw,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

It is proposed to amend 40 CFR Part 300, Appendix B, as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300, Appendix B, is revised to read as follows:

Authority: 42 U.S.C. 9605(a)(8)(B).

2. It is proposed to add the following sites, by group, to Appendix B of Part 300:

NATIONAL PRIORITIES LIST, RCRA SITES TO BE REPROPOSED TO THE NPL (BY GROUP), MAY 1988

NPL Gr [1]	St	Site name	City/County	Response catergory [2]	Cleanup status [3]
5	NE	Lindsay Manufacturing Co	Lindsay	V, S	O
6	VA	Culpeper Wood Preservers, Inc	Culpepper	V, H	
8	AZ	Motorola, Inc. (52nd Street Plant)	Phoenix	D	
8	VA	Buckingham County Landfill	Buckingham	D	
9	CA	Fairchild Semiconduct (S San Jose)	South San Jose	D	O
10	IN	Prestolite Battery Division	Vincennes	D	
11	CA	J.H. Baxter & Co	Weed		
12	CA	Lorentz Barrel & Drum Co	San Jose	R, S	
12	MI	Kysor Industrial Corp	Cadillac	R	
13	ME	Union Chemical Co., Inc	South Hope	V, R, F, S	O
14	FL	City Industries, Inc	Orlando	R, F, S	O
14	NC	National Starch & Chemical Co	Salisbury	D	
15	MO	Conservation Chemical Co	Kansas City	R, F	

Number of Sites Proposed for Listing: 13

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.
2: V—Voluntary or negotiated response; F—Federal enforcement; D—Category to be determined; R—Federal and State response; S—State enforcement.
3: I—Implementation activity underway, one or more operable units; O—One or more operable units completed; others may be underway; C—Implementation activity completed for all operable units.

[FR Doc. 88-14295 Filed 6-23-88; 8:45 am]

BILLING CODE 6560-50-M

federal register

Friday
June 24, 1988

Part VIII

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Waste Sites—Update 7; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3404-2]

National Priorities List for Uncontrolled Hazardous Waste Sites—Update 7

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing the seventh update to the National Priorities List ("NPL"). This update proposes 229 new sites and the expansion of one final site, and reproposes four already proposed sites The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, and Executive Order 12316. CERCLA requires that the NPL be revised at least annually. Today's notice proposed the seventh major revision to the NPL.

These sites are being proposed because they meet the requirements of the NPL. EPA has included on the NPL sites at which there are or have been releases or threatened releases of designated hazardous substances, or of "pollutants or contaminants" which may present an imminent and substantial danger to the public health or welfare. This notice provides the public with an opportunity to comment on placing these sites on the NPL.

DATES: Comments must be submitted on or before August 23, 1988.

ADDRESSES: Comments may be mailed to Stephen Lingle, Director, Hazardous Site Evaluation Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Addresses for the Headquarters and Regional dockets are provided below. For further details on what these dockets contain, see the Public Comment Section, Section IV, of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

Tina Maragousis, Headquarters, U.S. EPA CERCLA Docket Office, Waterside Mall Subbasement, 401 M Street, SW., Washington, DC 20460, 202/382-3046
Evo Cunha, Region 1, U.S. EPA Waste Management Division Records Center, HES-CAN 6, 90 Canal Street, Boston, MA 02203, 617/573-5729
U.S. EPA Region 2, Document Control Center, Superfund Docket, 26 Federal Plaza, 7th Floor, Room 740, New York, NY 10278, Latchmin Serrano 212/264-5540, Ophelia Brown 212/264-1154
Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Bldg., 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-0580
Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street NE., Atlanta, GA 30365, 404/347-4216
Cathy K. Freeman, Region 5, U.S. EPA 5 HR-11, 230 South Dearborn Street, Chicago, IL 60604, 312/886-6214
Deborah Vaughn-Wright, Region 6, U.S. EPA 1445 Ross Avenue, Mail Code 6H-ES, Dallas, TX 75202-2733, 214/655-6740
Connie McKenzie, Region 7, U.S. EPA Library, 726 Minnesoa Avenue, Kansas City, KS 66101, 913/236-2828
Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 500, Denver, CO 80202-2405, 303/293-1444
Linda Sunnen, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8082
David Bennett, Region 10, U.S. EPA, 11th Floor, Mail Stop HW-113, 1200 6th Avenue, Seattle, WA 98101, 206/442-2103.

FOR FURTHER INFORMATION CONTACT: Robert Myers, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460, or the Superfund Hotline, Phone (800) 424-9346 (or 382-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, *et seq.* ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. To implement CERCLA, the Environmental Protection Agency ("EPA" or the "Agency") promulgated the revised National Oil and Hazardous Substances Contingency Plan, 40 CFR Part 300, on July 16, 1983 (47 FR 31180), pursuant to Section 105 of CERCLA and Executive Order 12316 (46 FR 42237, August 20, 1981). The National Contingency Plan ("NCP"), further revised by EPA on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912), sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants.

Section 105(a)(8)(A) of CERCLA, as amended, required that the NCP include criteria for determining priorities among releases or threatened releases for the purpose of taking remedial or removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)). These criteria are included in Appendix A of the NCP, *Uncontrolled Hazardous Waste Site Ranking System: A User's Manual* (the "Hazard Ranking System" or "HRS") (47 FR 31219, July 16, 1982).

Section 105(a)(8)(B) of CERCLA, as amended, requires that the statutory criteria described in the HRS be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States. The list, which is Appendix B of the NCP, is the National Priorities List ("NPL").

In this notice, EPA is proposing to add 229 sites to the NPL. In addition, four proposed sites are being reproposed and one final site is being proposed for expansion. Adding the 149 sites previously proposed brings the total number of proposed sites to 378. The final NPL contains 799 sites, for a total

of 1177 final and proposed sites. EPA is proposing to include on the NPL sites at which there are or have been releases or threatened releases of hazardous substances, or of "pollutants or contaminants." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The primary purpose of the NPL, therefore, is to serve as an informational tool for use by EPA in identifying sites that appear to warrant further investigation and possible remedial action under CERCLA. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA-financed removal actions, remedial investigations/feasibility studies, or actions brought pursuant to section 106 or 107(a)(4)(B) of CERCLA.

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities, EPA does not rely on the scores as the sole means of determining such priorities. The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate. These studies will take into account the extent and magnitude of the contaminants in the environment, the risk to affected populations, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct response action at some sites on the NPL because of more pressing needs at other sites, or because an enforcement action may instigate or force private-party cleanup. Given the limited resources available in the Hazardous Substances Superfund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant response action.

III. NPL Update Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS takes into account "pathways" to human health or environmental exposure in terms of numerical scores. Those sites that score 28.50 or greater on the HRS, and which meet listing policies, are proposed.

The Superfund Amendments and Reauthorization Act ("SARA"), enacted on October 17, 1986, directs EPA to revise the HRS. The Agency will continue to use the existing HRS until the effective date for the revised HRS. Sites on the final NPL prior to the effective date of the revised HRS will not be reevaluated, as provided by CERCLA section 105(c)(3).

The second mechanism for adding sites to the NPL is by State designation. Each State may designate a single site as its top priority, regardless of the HRS score. This mechanism is provided by section 105(a)(8)(B) of CERCLA, as amended, which requires that, to the extent practicable, the NPL include within the one hundred highest priorities at least one facility designated by each State as representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.66(b)(4) (50 FR 37624, September 16, 1985), has been used only in rare instances; it allows certain sites with HRS scores below 28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

States have the primary responsibility for identifying sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, monitoring, and scoring sites. Regional Offices may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the new sites that meet the criteria for listing and solicits public comments on the proposal. Based on these comments and further EPA review, the Agency determines final scores and promulgates those sites that still qualify for listing.

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has since been expanded (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; 50 FR 37630, September 16, 1985; 51 FR 21054, June 10, 1986, and 52 FR 27620, July 22, 1987). On March 7, 1986 (51 FR 7935), EPA deleted eight sites from the NPL and on April 18, 1988 (53 FR 12680) deleted three more sites. The number of final NPL sites is 799, including 32 Federal facility sites. Another 149 sites (including 16 Federal facility sites) from previous updates remain proposed for the NPL (see 48 FR 40674, September 8, 1983; 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; 50 FR 37950, September 18, 1985; 51 FR 21099, June 10, 1986, and 52 FR 2492, January 22, 1987). With the 229 sites in proposed Update #7, 378 sites are not proposed for the NPL. Final and proposed sites total 1177.

IV. Public Comment Period

This **Federal Register** notice, which proposes sites for NPL Update #7, opens the formal 60-day comment period. Comments may be mailed to Stephen Lingle, Director, Hazardous Site Evaluation Division (Attn: NPL staff), Office of Emergency and Remedial Response (WH–548A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The "ADDRESSES" portion of this notice contains information on where to obtain documents relating to the scoring of these proposed sites. Documents providing EPA's justification for proposing these sites are available to the public in both the Headquarters public docket and in the appropriate Regional Office public docket.

The Headquarters public docket for NPL Update #7 contains: HRS score sheets for each proposed site; a Documentation Record for each site describing the technical rationale for the HRS scores; pertinent information for any site affected by special study waste or Resource Conservation and Recovery Act (RCRA) or other listing policies; and a list of documents referenced in the Documentation Record. The Headquarters public docket is located in EPA Headquarters, Waterside Mall Subbasement, 401 M Street SW., Washington, DC 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. Requests for copies of the HRS documents may be directed to the EPA Headquarters docket office.

The Regional public dockets contain all information available in the Headquarters docket, including HRS score sheets, Documentation Records, pertinent RCRA or special study waste information, and a list of reference documents for each site in that Region. These Regional dockets also include the reference documents themselves, which contain the data EPA relied upon in calculating or evaluating the HRS scores. The reference documents are available only in the Regional public dockets. These reference documents may be viewed by appointment only in the appropriate Regional Office, and requests for copies may be directed to the appropriate Regional docket or Superfund Branch. Documents relevant to the scoring of each site, but which were not used as formal references, are also a available in the appropriate Regional Office, and, in some cases, State or EPA contractor offices. These may be viewed and copied by arrangement with the appropriate office. In all cases, an informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any document.

EPA considers all comments received during this formal comment period. Comments are placed into the Headquarters docket and, during the comment period, are available to the public only in the Headquarters docket. A complete set of comments pertaining to sites in a particular EPA Region will be available for viewing in the Regional Office docket approximately one week following the close of the formal comment period. Comments received after the close of the comment period will be available in the Headquarters docket and in the appropriate Regional Office docket on an "as received" basis. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of these comments. After considering the relevant comments received during the comment period, EPA will add to the NPL all proposed sites that meet EPA's criteria for listing. In past NPL rulemakings, EPA has considered, to the extent practicable, comments received after the close of the comment period. EPA will attempt to do so in this rulemaking as well. However, because of the large number of sites proposed, and the need to respond to comments and finalize sites prior to the effective date of the revised HRS, EPA may no longer be able to consider late comments.

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

A statement describing what information the Agency discloses in response to Freedom of Information Act requests from the public was published on February 25, 1987 (52 FR 5578).

V. Listing Policies

CERCLA restricts EPA's authority to respond to certain categories of releases and expressly excludes some substances from the definition of a release. In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities such as RCRA can be used to achieve cleanup of these releases. Preambles to previous NPL rulemakings have discussed examples of these deferral policies. (See 48 FR 40658 (September 8, 1983); 49 FR 37070 (September 21, 1984); 49 FR 40320 (October 15, 1984); 51 FR 21056 (June 10, 1986); and 52 FR 27620 (July 22, 1987)). In addition, EPA is considering broadening the deferral approach, such that listing of sites on the NPL would be deferred in cases where a Federal authority and its implementing program are found to have corrective action authority. EPA is also considering extending this policy to States that have implementing programs with cleanup authorities to address CERCLA releases, and to sites where the potentially responsible parties (PRPS) enter into Federal enforcement agreements for site cleanup under CERCLA. EPA plans to propose this policy in the preamble to the NCP revisions which are scheduled for publication later in 1988. Sites included in today's proposed rule could be affected by that policy if, after public comment, it is adopted by EPA.

Sites proposed for the NPL in this update meet current criteria and listing policies. The NPL policies of relevance to this update—Federal facility sites, RCRA sites, special study waste sites, and mining sites—are discussed below.

Federal Facility Sites

On June 10, 1986 (51 FR 21057), the Agency announced a decision on components of a listing and deferral policy for non-Federal RCRA sites and requested comments on several additional components. The policy was intended to reflect RCRA's broadened corrective action authorities as a result of the Hazardous and Solid Waste Amendments of 1984 (HSWA). As explained in greater detail below, the policy generally defers the listing of sites subject to RCRA Subtitle C corrective action authorities unless one or more of three criteria is met: (1) The owner/operator is bankrupt; (2) the owner/operator has lost authorization to operate and has indicated an unwillingness to undertake corrective action; or (3) in cases other than loss of authorization to operate, the owner/operator has a clear history of unwillingness to undertake corrective action. In announcing this policy, the Agency reserved for a later date the question of whether this or another policy would be applicable for Federal facility sites. The Agency explained that this issue would be considered along with other issues relating to Federal facility sites (51 FR 21059, June 10, 1986).

Since that time, the Agency has considered the issue of placing Federal facility sites on the NPL. As part of its deliberations, EPA considered pertinent sections of SARA and a policy published for comment regarding RCRA Subtitle C corrective action at Federal facilities with RCRA operating units (51 FR 7722, March 5, 1986). Specifically, that policy stated that: (1) RCRA section 3004(u) subjects Federal facilities to corrective action requirements to the same extent as privately-owned or privately-operated facilities and (2) the

definition of a Federal facility boundary is equivalent to the property-wide definition of facility at privately-owned or privately-operated facilities. This policy was of particular interest because the Agency has determined that the vast majority of Federal facilities that could be placed on the NPL have RCRA-regulated units within their boundaries.

The Agency has interpreted SARA and its legislative history to indicate that Congress clearly intended that Federal facilities be placed on the NPL and that, if appropriate, cleanup should be effected at those sites. In the floor debates, Senator Robert T. Stafford explained Section 120 as follows:

> [T]he amendments require a comprehensive nationwide effort to identify and assess all Federal hazardous waste sites that warrant attention * * *. The legislation * * * requires that any Federal facility that meets the criteria applied to private sites listed on the National Priorities List (NPL) must be placed on the NPL." 132 Cong. Rec. S. 14902 (daily ed., October 3, 1986).

Section 120 of SARA includes requirements for the assessment of releases at Federal facilities, placement on the NPL, and if appropriate, implementation of remedial action. Sections 120(a) and 120(d) also require that Federal facility sites be evaluated for the NPL based upon the same guidelines, rules, regulations, and criteria that are applicable to other sites.

Given that Congress clearly contemplated that Federal facility sites be on the NPL, the Agency interprets these provisions of section 120 to mean that the criteria to list Federal facility sites should not be more exclusionary than the criteria to list non-Federal sites. Key elements of the current policy for listing non-Federal sites subject to RCRA Subtitle C corrective action authorities include whether the owner or operator either has demonstrated an inability to finance a cleanup as evidenced by the invocation of the bankruptcy laws or has clearly demonstrated unwillingness to comply with applicable RCRA requirements or regulations. Since bankruptcy proceedings are not applicable to Federal agencies and unwillingness to comply with Federal laws is unlikely, application of the non-Federal NPL/RCRA policy would have the effect of listing few Federal sites. The Agency believes that this result would be inconsistent with the spirit and intent of section 120.

To avoid being more exclusionary in placing Federal facility sites on the NPL, the Agency announced its intent to adopt a policy for Federal facility sites that would allow eligible Federal facility sites to be on the NPL regardless of whether RCRA Subtitle C corrective action authorities are applicable (52 FR 17991, May 13, 1987).

In summary, the Agency believes that placing Federal facility sites with or without RCRA units on the NPL is consistent with the intent of section 120 of SARA and will serve the purposes originally intended by the NCP at 40 CFR 300.66(e)(2)—to advise the public of the status of Federal government cleanup efforts (50 FR 47931, November 20, 1985). In addition, listing will help other Federal agencies set priorities and focus cleanup efforts on those sites presenting the most serious problems.

For Update #7, the Agency is proposing 14 Federal facility sites, bringing the total number of such proposed sites to 30. Of these 14 proposed sites, four are sub-areas of the Hanford site, the Department of Energy (DOE) facility in the State of Washington. The installation assessment for Hanford identified 337 potentially contaminated areas, and most of these have been aggregated into four larger areas termed the 100, 200, 300 and 1100 areas. Each of these four larger areas has been evaluated and each is being proposed for the NPL.

Releases From Resource Conservation and Recovery Act (RCRA) Sites

On June 10, 1986 (51 FR 21057), EPA announced a decision on components of a policy for the listing or the deferral from listing on the NPL of several categories of potential RCRA sites. At the same time, the Agency requested comment on several other components of the NPL/RCRA policy (51 FR 21109).

Under the policy, sites not subject to RCRA Subtitle C corrective action authorities will continue to be placed on the NPL. Examples of such sites include:

- Facilities that ceased treating, storing, or disposing of hazardous waste prior to November 19, 1980 (the effective date of Phase I of the Subtitle C regulations).
- Sites at which only materials exempted from the statutory or regulatory definition of solid waste or hazardous waste are managed.
- Hazardous waste generators or transporters which are not required to have Interim Status or a final RCRA permit.

Also under the policy, certain RCRA sites at which Subtitle C corrective action authorities are available may also be listed if they meet the criteria for listing (e.g., an HRS score of 28.50 or greater) *and* they fall within one of the following categories:

(1) Facilities owned by persons who have demonstrated an inability to finance a cleanup as evidenced by their invocation of the bankruptcy laws.
(2) Facilities that have lost authorization to operate, and for which there are additional indications that the owner or operator will be unwilling to undertake corrective action.
(3) Sites, analyzed on a case-by-case basis, whose owners or operators have a clear history of unwillingness to undertake corrective action.

Elsewhere in today's **Federal Register**, the Agency has described in greater detail several other categories of RCRA sites which it considers appropriate for the NPL. One category is non- or late filers. These are facilities that were treating, storing, or disposing of hazardous waste after November 19, 1980, but did not file a Part A permit by that date and have little or no history of compliance with RCRA. EPA has found that treatment, storage, and disposal facilities (TSDFs) that fail to file Part A of the RCRA permit application generally remain outside the range of cognizance of authorities responsible for compliance with RCRA, and generally are without the institutional mechanisms such as ground water monitoring programs, necessary to assure prompt compliance with the standards and goals of the RCRA program.

Another category of RCRA sites appropriate for listing is converters (the rationale for which is discussed elsewhere in today's **Federal Register**). These are facilities that at one time were treating or storing RCRA Subtitle C hazardous waste but have since converted to generator-only status, or any other hazardous waste activity for which interim status is not required. Their Part A applications have been withdrawn. This category is considered appropriate for listing because the RCRA corrective action program currently focuses primarily on TSDFs (due to statutory deadlines in RCRA), and thus EPA has not routinely reviewed converters under RCRA Subtitle C. Therefore, EPA has decided to propose these sites in order to ensure that they are expeditiously addressed.

Two other categories of RCRA sites are appropriate for the NPL because the sites are not subject to Subtitle C corrective action authorities of RCRA. The protective filer category includes facilities which have filed Part A permit applications for treatment, storage and disposal of hazardous wastes as a precautionary measure only. The second category includes facilities for which permits for the treatment, storage, or disposal of hazardous waste were

issued prior to the enactment of the Hazardous and Solid Waste Amendments (HSWA) of 1984 and the owner/operator will not voluntarily modify the permit to incorporate corrective action requirements. Facilities in this category are referred to as pre-HSWA permittees. If a pre-HSWA permittee consents to include corrective action authority, EPA will consider not adding the facility to the NPL.

Update #7 includes eight RCRA sites meeting the inability to pay criterion, and 15 sites having converter or non- or late filer status. These sites are presented in Table 1. In addition, Update #7 includes generators, protective filers, and one pre-HSWA permittee, Solvent Service, Inc., San Jose, CA. Documents supporting the RCRA determinations for these sources are available for review in both the Headquarters and appropriate Regional dockets. Commenters are encouraged to provide documentation for any site where they believe EPA's RCRA determination is in error.

Table 1.—Proposed Update #7 Sites Subject to RCRA Subtitle C Corrective Action Authorites

Inability to Pay

Kaiser Steel Corp. (Fontana Plant), Fontana, CA
Lenz Oil Service, Inc., Lemont, IL
Continental Steel Corp., Kokomo, IN
Pester Refinery Co., El Dorado, KS
Bofor- Nobel, Inc., Muskegon, MI
Mattiace Petrochemical Co., Inc., Glen Cove, NY
Oklahoma Refining Co., Cyril, OK
Tonolli Corp., Nesquehoning, PA

Non- or Later Filer

Apache Powder Co., St. David, AZ
Brown & Bryant, Inc. (Arvin Plant), Arvin, CA
Kearney-KPE, Stockton, CA
Marzone Inc./Chevron Chemical Co., Tifton, GA
Ilada Energy Co., East Cape Girardeau, IL
Warner Electric Brake & Clutch Co., Roscoe, IL
Brook Industrial Park, Bound Brook, NJ *

Converters

Advanced Micro Devices (Building 915), Sunnyvale, CA
Hexcel Corp., Livermore, CA
Firestone Tire & Rubber Co. (Albany Plant), Albany, GA
John Deere (Ottumwa Works Landfills), Ottumwa, IA
Muskegon Chemical Co., Whitehall, MI
AMP, Inc. (Glen Rock Facility), Glen Rock, PA
Westinghouse Electric Corp. (Sharon Plant), Sharon, PA
Carrier Air Conditioning Co., Collierville, TN

* Site includes several facilities, including a RCRA non-filer facility.

Releases of Special Study Wastes

Sections 105(g) and 125 of CERCLA, as amended by SARA, require additional information before sites involving RCRA "special study wastes" can be proposed for the NPL. Section 105(g) applies to sites that (1) were not on or proposed for the NPL as of October 17, 1986, and (2) contain sufficient quantities of special study wastes as defined under sections 3001(b)(2), 3001(b)(3)(A)(ii), and 3001(b)(3)(A)(iii) of RCRA. Before these sites can be proposed for the NPL, SARA requires that the following information be considered:

- The extent to which the HRS score for the facility is affected by the presence of the special study waste at or released from the facility.
- Available information as to the quantity, toxicity and concentration of hazardous substances that are constitutents of any special study waste at, or released from, the facility; the extent of or potential for release of such hazardous constituents; the exposure or potential exposure to human population and the environment, and the degree of hazard to human health or the environment posed by the release of such hazardous constitutents at the facility.

Section 125 of CERCLA, as amended, applies to facilities that were neither on nor proposed for the NPL on the date of enactment of SARA and which contain "substantial volumes" of waste described in section 3001(b)(A)(i) of RCRA. Until the HRS is revised, these sites may not be included on the NPL "on the basis of an evaluation made principally on the volume of such waste and not on the concentration of the hazardous constituents of such waste." Even though section 125 does not contain specific requirements for the interim period, the Agency believes that wastes covered under section 125 should follow the requirements of section 105(g) until these issues are addressed in the revised HRS.

To comply with SARA, the Agency has prepared addenda that evaluate, for each proposed site containing or potentially containing special study wastes, the information called for in section 105(g). Section 125 addresses fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, and not site in Update #7 has been scored using these special study wastes. Addenda are available for review in the public docket.

This proposed NPL update includes 20 new sites and one final site being proposed for expansion which contain or potentially contain the following special study wastes: cement Kiln dust; mining wastes from the extraction beneficiation, and processing of ores and minerals (including coal tar from coal gasification plants and spent pot liners from aluminum production); and oil drilling muds, produced waters, and other wastes from the exploration, production, or development of crude oil or natural gas. The addenda for these sites indicate that the special study wastes present a threat to human health and the environment, and that the sites should be proposed to the NPL. The sites and the special study wastes are:

- Sulphur Bank Mercury Mine, Clear Lake, CA (mining wastes)
- Sealand Limited, Mount Pleasant, DE (coal tar)
- Fairfield Coal Gasification Plant, Fairfield, IA (coal tar)
- Lehigh Portland Cement Co., Mason City, IA (cement kiln dust)
- Northwestern States Portland Cement Co., Mason City, IA (cement kiln dust)
- People's Natural Gas Co., Dubuque IA (coal tar)
- Central Illinois Public Service Co., Taylorville, IL (coal tar)
- D.L. Mud, Inc., Abbeville, LA (oil drilling mud and produced waters)
- Gulf Coast Vacuum Services, Abbeville, LA (oil drilling mud and produced waters)
- PAB Oil & Chemical Service, Inc., Abbeville LA (oil drilling mud and produced waters)
- Oronogo-Duenweg Mining Belt, Jasper County, MO (mining wastes)
- Weldon Spring Quarry (USDOE/Army), St. Charles County, MO (mining wastes from uranium ore processing)
- Cimarron Mining Corp., Carrizozo, NM (mining wastes from metal ore beneficiation)
- Cleveland Mill, Silver City, NM (mining wastes)
- Lee Acres Landfill (USDOI), Farmington, NM (oil drilling mud and produced waters)
- Niagara Mohawk Power Corp. (Saratoga Springs Plant), Saratoga Springs, NY (coal tar)
- Reilly Tar & Chemical Corp. (Dover Plant), Dover, OH (coal tar)
- Jacks Creek/Sitkin Smelting & Refining, Inc., Maitland, PA (mining wastes)
- Tex-Tin Corp., Texas City, TX (mining wastes)
- Richardson Flat Tailings, Summit County, UT (mining wastes)
- Aluminum Co. of America (Vancouver Smelter), Vancouver, WA (spent pot liners from aluminum production)

Mining Sites

The Agency's position, as discussed in the preambles to previous NPL final rulemakings (48 FR 40658, September 8, 1983; 49 FR 37070, September 21, 1984; 51 FR 21054, June 10, 1986; 52 FR 27620, July 22, 1987), is that mining wastes may be hazardous substances, pollutants, or contaminants under CERCLA and, therefore, are eligible for the NPL. This position was affirmed in 1985 by the United States Court of Appeals for the District of Columbia Circuit (*Eagle-Picher Industries, Inc. v. EPA*, 759 F. 2d 922 (D.C. Cir 1985)).

As in past final rules (51 FR 21034 (June 10, 1986) and 52 FR 27620 (July 22, 1987)), the Agency, prior to listing mining sites, has considered whether they might be addressed satisfactorily pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). EPA has determined that 23 States have an approved Abandoned Mine Land Reclamation (AMLR) program under SMCRA. The funds in these programs are primarily intended to address the public health problems associated with abandoned coal mines. However, in certain cases the Governor of a State with an approved program can decide to use AMLR funds to address non-coal sites abandoned prior to August 3, 1977, the enactment date of SMCRA.

Seven mining sites are being proposed for the NPL, and one final mining site, Weldon Spring Quarry (USDOE/Army), is being proposed for expansion. Two of these sites operated after August 3, 1977 and are not subject to SMCRA, so they are being proposed:

- Cimarron Mining Corp., Carrizozo, NM
- Tex-Tin Corp., Texas City, TX

One site is being proposed because it is located in a State which does not have an approved AMLR program:

- Sulphur Bank Mercury Mine, Clear Lake, CA

The remaining five mining sties, including Weldon Spring Quarry (USDOE/Army), were abandoned prior to the August 3, 1977 enactment date of SMCRA and are being proposed for the NPL:

- Oronogo-Duenweg Mining Belt, Jasper County, MO
- Weldon Spring Quarry (USDOE/Army), St. Charles County, MO
- Cleveland Mill, Silver City, NM
- Jacks Creek/Sitkin Smelting & Refining, Inc., Maitland, PA
- Richardson Flat Tailings, Summit County, UT

These five mining sites are in States (Missouri, New Mexico, Pennsylvania, and Utah) which have approved AMLR programs. The Agency has had preliminary discussions with the Department of the Interior and these States on their AMLR programs for addressing mining sites, and plans to continue these discussions in order to develop a more comprehensive policy for listing mining sites which are potentially eligible for SMCRA funds on the NPL. While this policy is under development, the Agency will propose to list these five sites in order to avoid delaying CERCLA activities. Information outlining the States' position on use of AMLR funds at these sites is available in the docket.

Sites Being Reproposed

Four previously proposed sites are being reproposed, and one final Federal facility site is being proposed for expansion. These sites are:

- Apache Powder Co., St. David, AZ. Procedural issues arose and new technical information became available following proposal on June 10, 1986 (51 FR 21099).
- Chem-Solv, Inc., Cheswold, DE. Procedural issues arose and new technical information became available following proposal on January 22, 1987 (52 FR 2492).
- Combustion, Inc., Denham Springs, LA. New technical information became available following proposal on June 10, 1986 (51 FR 21099).
- Paoli Rail Yard, Paoli, PA. New technical information became available following proposal on January 22, 1987 (52 FR 2492).
- Weldon Spring Quarry (USDOE/Army), St. Charles County, MO. This Federal facility site was placed on the final NPL on July 22, 1987 (52 FR 27620). Since then, EPA has determined that the Weldon Spring Feed Materials Plant and Raffinate Pits, located less than three miles from the Quarry, are linked to the contamination problems at the original site. Consequently, EPA proposes to expand the original site and requests comment on the expanded site. The new site will be renamed "Weldon Spring Quarry/Plant/Pits (USDOE/Army)."

VI. Contents of the Proposed Seventh NPL Update

Following this preamble is a list of the 229 sites proposed for the NPL. See Table 2 and Table 3. Each entry on the list contains the name of the facility and the State and city or county in which it is located. All sites other than N.W. Mauthe Co., Appleton, WI, received HRS scores of 28.50 or above. NW. Mauthe is the State top priority site, and received an HRS score of 25.35.

Each proposed site is placed by score in a group corresponding to groups of 50 sites presented within the final NPL. For example, sites in Group 8 of the proposed update have scores that fall within the range of scores covered by the eighth group of 50 sites on the final NPL. Any site designated by a State as its top priority is included within the one hundred highest priority sites, as provided by section 105(a)(8)(B) of CERCLA, as amended. Since States are not required to rely exclusively on the HRS in designating their top priority sites, lower scoring State priority sites such as N.W. Mauthe are listed at the bottom of the first one hundred sites on the NPL.

Each entry is accompanied by one or more notations reflecting the status of response and cleanup activities at the site at the time this list was prepared. Because this information may change periodically, these notations may become outdated.

Five response categories are used to designate the type of response underway. One or more categories may apply to each site. The categories are: Federal and/or State response (R), Federal enforcement (F), State enforcement (S), Voluntary or negotiated response (V), and Category to be determined (D).

EPA also indicates the status of significant Fund-financed or private-party cleanup activities underway or completed at proposed and final NPL sites. There are three cleanup status codes; only one code is necessary to designate the status of cleanup activities at each site since the codes are mutually exclusive. The codes are: Implementation activities are underway for one or more operable units (I), Implementation activities are completed for one or more (but not all) operable units, but additional site cleanup actions are necessary (O), and Implementation activities are completed for all operable units (C).

These categories and codes are explained in detail in earlier rulemakings, most recently on June 10, 1986 (51 FR 21075).

VII. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order No. 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites. EPA believes that the kinds of economic effects

associated with this revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when the amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to proposing the addition of these sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis. This rule was submitted to the Office of Management and Budget (OMB) for review as requested by Executive Order No. 12291.

Costs

EPA has detemined that this proposed rulemaking is not "major" regulation under Executive Order No. 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in a proposed rulemaking. This action was submitted to the Office of Management and Budget for review.

The major events that generally follow the proposed listing of a site on the NPL are a search for responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, design and construction, and O&M, or the costs may be shared by EPA and the States.

The State cost share for cleanup activities has been amended by section 104 of SARA. For privately-owned sites, as well as publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action costs. For publicly-operated sites, the State cost share is at least 50% of all response costs, including the RI/FS, remedial design and construction, and O&M.

With regard to O&M for cleanup activities other than ground water or surface water, EPA will share, for up to 1 year, in the cost of that portion of O&M that is necessary to assure that a remedy is operational and functional. After that time, the State assumes full responsibility for O&M. SARA provides that EPA will share in the operational cost associated with ground water/surface water restoration for up to 10 years.

In previous NPL rulemakings, the Agency has provided estimates of the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average per site and total cost basis. At this time, however, there is insufficient information to determine what these costs will be as a result of the new requirements under SARA. Until such information is available, the Agency will provide cost estimates based on CERCLA prior to enactment of SARA; these estimates are presented below. EPA is unable to predict that portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site [1]
RI/FS	$875,000
Remedial design	850,000
Remedial action	[2] 8,600,000
Net present value of O&M [3]	[2] 3,770,000

[1] 1986 U.S. Dollars
[2] Includes State cost-share
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.

Source: Hazardous Site Control Division, Office of Emergency and Remedial Response, U.S. EPA.

Costs to States associated with today's proposed amendment arise from the required State cost-share of: (1) 10% of remedial actions and 10% of first-year O&M costs at privately-owned sites and sites which are publicly-owned but not publicly-operated; and (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites. States will assume the cost for O&M after EPA's period of participation. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the 215 non-Federal sites proposed for the NPL in this amendment will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial actions at all 215 non-Federal sites would be approximately $1.02 billion, of which approximately 744 million is attributable to the State O&M cost. As a result of the changes to State cost share under SARA, however, the Agency believes that State O&M costs may actually decrease. When new cost information is available, it will be presented in future rulemakings.

Proposing a hazardous waste site for the NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the site voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of response costs, but the Agency considers: the volume and nature of the wastes at the site, the parties' ability to pay, and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this proposed amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The benefits associated with today's proposed amendment to list additional sites are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, this proposed expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

As a result of the additional NPL remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at these particular sites.

Associated with the costs of remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small governmental jurisdictions, and nonprofit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. Proposing sites for the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate the number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be signficantly affected by CERCLA actions. However, EPA does not expect the impacts from the proposed listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost-recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including the firm's contribution to the problem and the firm's ability to pay. The impacts from cost recovery on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Jack W. McGraw,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

Date: June 16, 1988.

It is proposed to amend 40 CFR Part 300 as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 is revised to read as follows:

Authority: 42 U.S.C. 9605(a)(8)(B).

2. It is proposed to add the following sites by group to Appendix B of Part 300.

TABLE 2.—NATIONAL PRIORITIES LIST, PROPOSED UPDATE 7 SITES (BY GROUP), JUNE 1988

NPL Gr[1]	St	Site name	City/county	Response category[2]	Cleanup status[3]
2	IA	Northwestern States Portland Cem	Mason City	D	
2	KY	Brantley Landfill	Island	D	
2	NJ	Brook Industrial Park	Bound Brook	R	O
2	IA	Lehigh Portland Cement Co.	Mason City	D	
2	CA	Kearney-KPF	Stockton	D	
2	WA	ALCOA (Vancouver Smelter)	Vancouver	D	
2	WA	General Electric (Spokane Shop)	Spokane	D	
2	WI	N.W. Mauthe Co., Inc.[4]	Appleton	R, S	O
3	NY	Circuitron Crop.	East Farmingdale	D	
3	IA	White Farm Equipment Co. Dump	Charles City	D	
3	MI	Bofors Nobel, Inc.	Muskegon	R, S	
3	PA	Raymark	Hatboro	F	
3	CA	Brown & Bryant, Inc. (Arvin Plant)	Arvin	D	
3	VT	Burgess Brothers Landfill	Woodford	D	
3	WA	Seattle Mun Lndfill (Kent Hghlnds)	Kent	D	
3	CT	Barkhamsted-New Hartford Landfill	Barkhamsted	D	
4	CA	Kaiser Steel Corp (Fontana Plant)	Fontana	D	
4	IN	Whiteford Sales&Ser/Nationalease	South Bend	D	
4	NY	Rosen Brothers Scrap Yard/Dump	Cortland	R	I
4	IL	Woodstock Municipal Landfill	Woodstock	D	
4	SC	Rock Hill Chemical Co	Rock Hill	R	I
4	MI	Hi-Mill Manufacturing Co	Highland	D	
4	CT	Precision Plating Corp	Vernon	D	
4	VT	Bennington Municipal Sanitary Lfl	Bennington	D	
4	IL	Central Illinois Public Serv Co	Taylorville	D	O
5	MT	Comet Oil Co	Billings	D	
5	IA	Mid-America Tanning Co	Sergeant Bluff	D	
5	WI	Hechimovich Sanitary Landfill	Williamstown	D	
5	CA	Sulphur Bank Mercury Mine	Clear Lake	D	
5	PA	Tonolli Corp	Nesquehoning	D	
5	MO	Oronogo-Duenweg Mining Belt	Jasper County	D	
5	Ct	Gallup's Quarry	Plainfield	D	
5	VT	Parker Sanitary Landfill	Lyndon	D	
5	IA	Peoples Natural Gas Co	Dubuque	D	
5	PA	Berks Landfill	Spring Township	D	
5	CA	Pacific Coast Pipe Lines	Fillmore	D	
5	IA	E.I. Du Pont (County Rd X23)	West Point	D	
5	IL	Interstate Pollution Control, Inc	Rockford	D	
5	OK	Oklahoma Refining Co	Cyril	D	
5	NJ	Global Sanitary Landfill	Old Bridge Township	D	
6	PA	Occidental Chem/Firestone Tire	Lower Pottsgrove Twp	D	
6	VT	Darling Hill Dump	Lyndon	D	

TABLE 2.—NATIONAL PRIORITIES LIST, PROPOSED UPDATE 7 SITES (BY GROUP), JUNE 1988—Continued

NPL Gr[1]	St	Site name	City/county	Response category[2]	Cleanup status[3]
6	WY	Mystery Bridge Rd/U.S. Highway 20	Evansville	R	O
6	FL	Agrico Chemical co	Pensacola	D	
6	AL	T.H. Agricul & Nutri (Montgomery)	Montgomery	D	I
6	CA	Solvent Service, Inc	San Jose	D	O
6	WA	Pasco Sanitary Landfill	Pasco	D	
6	KY	Fort Hartford Coal Co Stone Quarry	Olaton	D	
7	FL	Standard Auto Bumper Corp	Hialeah	D	
7	KS	29th & Mead Ground Water Contamin	Wichita	D	
7	KS	Hydro-Flex Inc	Topeka	D	
7	LA	Gulf Coast Vacuum Services	Abbeville	D	
7	FL	Airco Plating Co	Miami	D	
7	PA	A.I.W. Frank/Mid-County Mustang	Exton	D	
7	IL	Lenz Oil Service, Inc	Lemont	D	
7	WA	Pacific Car & Foundry Co	Renton	D	
7	IA	John Deere (Ottumwa Works Lndfls)	Ottumwa	D	
7	IN	Himco, Inc., Dump	Elkhart	D	
7	GA	Woolfolk Chemical Works, Inc	Fort Valley	V	I
7	IA	Electro-Coatings, Inc	Cedar Rapids	D	
7	IL	Southeast Rockford Grnd Wtr Con	Rockford	D	
7	IN	Conrail Rail Yard (Elkhart)	Elkhart	R	O
7	IN	Galen Myers Dump/Drum Salvage	Osceola	R	O
7	IN	Tippecanoe Sanitary Landfill, Inc	Lafayette	D	
7	MI	State Disposal Landfill, Inc	Grand Rapids	D	
7	NJ	South Jersey Clothing Co	Minotola	D	
7	GA	Cedartown Industries, Inc	Cedartown	D	
8	VT	BFI Sanitary Landfill (Rockingham)	Rockingham	D	
8	NC	Koppers Co Inc (Morrisville Plnt)	Morrisville	D	
8	PA	Westinghouse Elec (Sharon Plant)	Sharon	S	
8	GA	T.H. Agricul & Nutri (Albany)	Albany	D	I
8	NC	FCX, Inc. (Washington Plant)	Washington	D	
8	NM	Cleveland Mill	Silver City	D	
8	PA	Jacks Creek/Sitkin Smelting & Ref	Maitland	D	
8	MD	Bush Valley Landfill	Abingdon	D	
8	TN	Murray-Ohio Mfg (Horseshoe Bend)	Lawrenceburg	D	
8	IL	Beloit Corp	Rockton	D	
8	CA	Crazy Horse Sanitary Landfill	Salinas	D	O
8	CA	Spectra-Physics, Inc	Mountain View	D	O
8	IL	Warner Electric Brake & Clutch Co	Roscoe	D	
8	PA	Boarhead Farms	Bridgeton Township	D	
8	FL	Woodbury Chemical (Princeton Plnt)	Princeton	D	
9	NC	New Hanover Cnty Airport Burn Pit	Wilmington	D	
9	UT	Richardson Flat Tailings	Summit County	D	
9	NC	JFD Electronics/Channel Master	Oxford	D	I
9	PA	AMP, Inc. (Glen Rock Facility)	Glen Rock	D	O
9	MI	Peerless Plating Co	Muskegon	R	O
9	LA	PAB Oil & Chemical Service, Inc	Abbeville	D	
9	NM	Cimarron Mining Corp	Carrizozo	R	
9	TX	Tex-Tin Corp	Texas City	D	
9	FL	Beulah Landfill	Pensacola	D	
9	DE	Kent County Landfill (Houston)	Houston	D	
9	RI	Rose Hill Regional Landfill	South Kingstown	D	
9	KY	Red Penn Sanitation Co. Landfill	Peewee Valley	D	
9	OK	Mosley Road Sanitary Landfill	Oklahoma City	D	
9	CA	Hexcel Corp	Livermore	D	
9	CO	Chemical Sales Co	Commerce City	D	
9	FL	BMI-Textron	Lake Park	V, S	O
9	FL	Chemform, Inc	Pompano Beach	D	
9	FL	Madison County Sanitary Landfill	Madison	V, R	O
9	FI	Wilson Concepts of Florida, Inc	Pompano Beach	D	
9	MD	Anne Arundel County Landfill	Glen Burnie	D	
9	NC	FCX, Inc. (Statesville Plant)	Statesville	D	
9	SC	Lexington County Landfill Area	Cayce	D	
9	WA	Yakima Plating Co	Yakima	D	
9	CA	Intersil Inc./Siemens Components	Cupertino	D	
9	MI	Carter Industrials, Inc	Detroit	R	O
10	MI	Bendix Corp./Allied Automotive	St. Joseph	D	
10	VA	Arrowhead Assoc/Scovill Corp	Montross	F	
10	TX	Rio Grande Oil Co. Refinery	Sour Lake	D	
10	VA	Abex Corp	Portsmouth	F	
10	WA	Centralia Municipal Landfill	Centralia	D	
10	TN	Wrigley Charcoal Plant	Wrigley	D	
10	CT	Cheshire Associates Property	Cheshire	S	
10	SC	Townsend Saw Chain Co	Pontiac	D	O
10	VA	Suffolk City Landfill	Suffolk	D	
10	NJ	Higgins Disposal	Kingston	D	
10	VT	Tansitor Electronics, Inc	Bennington	D	
11	CA	Fresno Municipal Sanitary Lndfll	Fresno	D	O
11	CA	Newmark Ground Water Contamin	San Bernardino	D	
11	CA	Sola Optical USA, Inc	Petaluma	D	

TABLE 2.—NATIONAL PRIORITIES LIST, PROPOSED UPDATE 7 SITES (BY GROUP), JUNE 1988—Continued

NPL Gr[1]	St	Site name	City/county	Response category[2]	Cleanup status[3]
11	IL	DuPage Cty Ldf/Blackwell Forest	Warrenville	D	
11	NM	Pagano Salvage	Los Lunas	D	
11	TN	Carrier Air Conditioning Co	Collierville	D	
11	NY	Niagara Mohawk Power (Saratoga Sp)	Saratoga Springs	D	
11	OK	Sunray Oil Co. Refinery	Allen	D	
11	IN	Carter Lee Lumber Co	Indianapolis	D	
11	CA	CTS Printex, Inc	Mountain View	D	O
11	GA	Firestone Tire (Albany Plant)	Albany	D	
11	NH	Fletcher's Paint Works & Storage	Milford	D	
11	CA	Jasco Chemical Corp	Mountain View	D	
11	FL	B&B Chemical Co., Inc	Hialeah	D	
11	NY	C & J Disposal Leasing Co. Dump	Hamilton	D	
11	PA	Bell Landfill	Terry Township	D	
11	NY	Action Anodizing, Plating Polish	Copiague	D	
12	IL	Adams County Quincy Landfills 2&3	Quincy	D	
12	IL	Ilada Energy Co	East Cape Giraradeau	F	
12	KY	Caldwell Lace Leather Co., Inc	Auburn	D	
12	MI	Kaydon Corp	Muskegon	D	O
12	TX	Dixie Oil Processors, Inc	Friendswood	V, F	O
12	WI	Sauk County Landfill	Excelsior	D	
12	MI	Muskegon Chemical Co	Whitehall	S	O
12	IN	Lakeland Disposal Service, Inc	Claypool	D	
12	CT	Durham Meadows	Durham	D	
12	SC	Helena Chemical Co. Landfill	Fairfax	V	O
12	KY	Tri-City Disposal Co	Shepherdsville	D	
12	MI	Albion-Sheridan Township Landfill	Albion	D	
12	IA	Fairfield Coal Gasification Plant	Fairfield	D	
12	IA	Farmers' Mutual Cooperative	Hospers	V	S
12	NY	Carroll & Dubies Sewage Disposal	Port Jervis	D	
12	CT	Linemaster Switch Corp	Woodstock	V, F, S	
13	GA	Cedartown Municipal Landfill	Cedartown	D	
13	NY	Jones Chemicals, Inc	Caledonia	D	
13	PA	Saegertown Industrial Area	Saegertown	D	
13	ND	Minot Landfill	Minot	D	
13	MO	Missouri Electric Works	Cape Girardeau	D	
13	IL	Yeoman Creek Landfill	Waukegan	D	
13	DE	Sealand Limited	Mount Pleasant	R	O
13	NC	Geigy Chemical Corp (Aberdeen Plt)	Aberdeen	D	
13	KY	General Tire/Rubber (Mayfield Lnf)	Mayfield	D	
13	WI	Madison Metro Sewage District Lag	Blooming Grove	D	
13	WA	Tosco Corp. (Spokane Terminal)	Spokane	D	
13	OR	Joseph Forest Products	Joseph	D	
13	IL	Amoco Chemicals (Joliet Landfill)	Joliet	D	
13	SC	Beaunit Corp (Circular Knit & Dye)	Fountain Inn	D	
13	NJ	Industrial Latex Corp	Wallington Borough	R	O
13	LA	D.L. Mud, Inc	Abbeville	V	O
13	PA	Recticon/Allied Steel Corp	East Coventry Twp	D	
13	CA	GBF, Inc., Dump	Antioch	D	
13	CA	Valley Wood Preserving, Inc	Turlock	D	
13	PA	Butz Landfill	Stroudsburg	D	
14	CA	Advanced Micro Devices (Bldg. 915)	Sunnyvale	D	O
14	CA	Synertek, Inc. (Building 1)	Santa Clara	D	
14	CA	TRW Microwave, Inc (Building 825)	Sunnyvale	D	O
14	NH	Holton Circle Ground Water Contam	Londonderry	D	
14	NY	Mattiace Petrochemical Co., Inc	Glen Cove	R, S	O
14	MA	Atlas Tack Corp	Fairhaven	S	
14	IN	Continental Steel Corp	Kokomo	D	
14	FL	Wingate Road Munic Incinerat Dump	Fort Lauderdale	D	
14	NC	Benfield Industries, Inc	Hazelwood	D	
14	SC	Elmore Waste Disposal	Greer	R	O
14	OH	Reilly Tar & Chemical (Dover Plnt)	Dover	D	
14	MI	Parsons Chemical Works, Inc	Grand Ledge	D	
14	KY	Green River Disposal, Inc	Maceo	D	
14	FL	Anodyne, Inc	North Miami Beach	D	
14	AK	Alaska Battery Enterprises	Fairbanks N Star Bor	D	
14	AL	Redwing Carriers, Inc. (Saraland)	Saraland	D	
14	OK	Double Eagle Refinery Co	Oklahoma City	D	
14	WI	Fort Howard Paper Co. Lagoons	Green Bay	D	O
14	PA	Strasburg Landfill	Newlin Township	S	O
14	OK	Fourth Street Abandoned Refinery	Oklahoma City	D	
14	NJ	Witco Chemical Corp. (Oakland Plt)	Oakland	D	O
15	WA	Northwest Transformer (S Harkness)	Everson	D	
15	NJ	Higgins Farm	Franklin Township	R	O
15	WA	American Crossarm & Conduit Co	Chehalis	R	
15	GA	Marzone Inc./Chevron Chemical Co	Tifton	V, R	O
15	PA	Keyser Avenue Borehole	Scranton	R	
15	KS	Pester Refinery Co	El Dorado	S	
15	MI	Cannelton Industries, Inc	Sault Sainte Marie	D	
15	PA	Berkley Products Co. Dump	Denver	D	

TABLE 2.—NATIONAL PRIORITIES LIST, PROPOSED UPDATE 7 SITES (BY GROUP), JUNE 1988—Continued

NPL Gr [1]	St	Site name	City/county	Response category [2]	Cleanup status [3]
15	MS	Gautier Oil Co., Inc	Gautier	V, F	O
15	CA	Hewlett-Packard (620-40) Page Mill)	Palo Alto	D	
15	MI	Adam's Plating	Lansing	D	
15	ME	Saco Municipal Landfill	Saco	D	
15	NM	Prewitt Abandoned Refinery	Prewitt	D	
15	NY	Sidney Landfill	Sidney	D	
15	NC	Potter's Septic Tank Service Pits	Maco	R	O
15	NC	ABC One Hour Cleaners	Jacksonville	D	
15	PA	Elizabethtown Landfill	Elizabethtown	D	O
16	CA	Modesto Ground Water Contamin	Modesto	D	
16	DE	Sussex County Landfill No. 5	Laurel	D	
16	NJ	Garden State Cleaners Co	Minotola	D	
16	NJ	Pohatcong Valley Ground Water Con	Warren County	D	
16	WI	Waste Management (Brookfield Lfl)	Brookfield	D	
16	NJ	Kauffman & Minteer, Inc	Jobstown	D	

Number of Sites Proposed for Listing: 215

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.
[2] V=Voluntary or negotiated response; F=Federal enforcement; D=Category to be determined; R=Federal and State response; S=State enforcement.
[3] I=Implementation activity underway, one or more operable units; O=One or more operable units completed; others may be underway; C=Implementation activity completed for all operable units.
[4] State top priority site.

TABLE 3.—NATIONAL PRIORITIES LIST, FEDERAL FACILITY SITES, PROPOSED UPDATE 7 (BY GROUP), JUNE 1988

NPL Gr [1]	St	Site name	City/county	Response category [2]	Cleanup status [3]
1	WA	Hanford 200-Area (USDOE)	Benton County	D	
1	WA	Hanford 300-Area (USDOE)	Benton County	D	
1	CA	Riverbank Army Ammunition Plant	Riverbank	R	
1	NM	Cal West Metals (SBA)	Lemitar	D	
2	OH	Wright-Patterson Air Force Base	Dayton	R	
5	WA	Hanford 100-Area (USDOE)	Benton County	D	
8	CA	El Toro Marine Corps Air Station	El Toro	R	
10	NM	Lee Acres Landfill (USDOI)	Farmington	D	O
10	NC	Camp Lejeune Marine Corps Base	Onslow County	R	
10	WA	Hanford 1100-Area (USDOE)	Benton County	D	
12	PR	Naval Security Group Activity	Sabana Seca	R	
13	WA	Fairchild Air Force Base (4 Areas)	Spokane County	R	
15	CA	Concord Naval Weapons Station	Concord	R	
15	AZ	Yurna Marine Corps Air Station	Yuma	R	

Number of Federal Facility Sites Proposed for Listing: 14

[1] Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL.
[2] V=Voluntary or negotiated response; F=Federal enforcement; D=Category to be determined; R=Federal and State response; S=State enforcement.
[3] I=Implementation activity underway, one or more operable units; O=One or more operable units completed; others may be underway; C=Implementation activity completed for all operable units.

[FR Doc. 88-14294 Filed 6-23-88; 8:45 am]
BILLING CODE 6560-50-M